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DEMOCRACY

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TRADE UNIONS

A survey, with a program of action

AMERICAN CIVIL LIBERTIES UNION
170 Fifth Avenue, New York, N. Y.

Nov., 1943

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FOREWORD

THE UNDERSIGNED welcome this survey of democracy in trade unions as a timely contribution to public policy. While we have not participated in the research or drafting, we endorse the recommendations as in the best interests both of unions and the public. None of us are employers or trade union officials, and all of us represent in varying ways what may properly be called the public interest.

It is evident that unless the abuses in trade unions which have aroused widespread hostility are corrected, the drive for legislative control may not only undo the great gains for labor's rights of recent years, but also impose unwarranted restrictions. Those abuses arise largely from lack of democratic practices in many unions—resulting in the exclusion of Negroes, women and others qualified by their skills, in limitation of membership by high fees, in control by autocratic cliques, or in a few unions by racketeers—and in the failure of some unions to hold regular and fair elections and to account to the membership for union funds.

These practices are, it is true, exceptions to the generally democratic methods of most unions. But they are exceptions conspicuous enough to furnish ammunition for labor's enemies, by which public sympathy is alienated and unreasonable public controls thereby more easily imposed. It is therefore imperative that through pressures within the trade union movement itself, these exceptional abuses be corrected, or that such controls as may be established by law do not go beyond reasonable requirements for promoting genuine democratic responsibility within the unions.

It may be argued that in time of war trade unions, like other agencies, must submit to restrictions essential to complete national unity. But it is evident that with few exceptions the unions have been willing to forego the exercise of many of these rights and to cooperate wholeheartedly in obtaining maximum production with minimum interruption. The vice of the restrictions proposed in war-time, and already adopted in many states and by Congress, is not their relation to the war but their reflection of hostile forces using the war as an occasion to cripple or destroy the unions

permanently. And to do so labor's enemies cite the evils inherent in undemocratic union practices, though they may affect only a minority—autocratic leadership, racketeering, arbitrary rule, manipulation by minorities.

It therefore is imperative, even in the midst of war, if labor is to survive the attack without loss of essential rights, that the abuses be promptly tackled and remedied, chiefly by the unions themselves. A disposition to recognize them and to correct them would go far to enlist that public confidence in unionism without which it cannot maintain or extend its independence and rights.

We who endorse this report are wholly opposed to legislation which would impose legal restrictions on the right to strike (save as it may be voluntarily surrendered in war-time), and on the right to peaceful picketing. We are opposed also to compulsory incorporation of unions, to licensing labor representatives, to outlawing jurisdictional strikes or the closed shop.

We are opposed to legal restraints on unions beyond two measures guaranteeing (1) that unions shall be open to all qualified workers without discrimination and (2) that the democratic rights of members under union constitutions shall be protected.

We support legislation encouraging orderly industrial relations. We have supported the National Labor Relations Act as a necessary guarantee of peaceful organization and collective bargaining. We have welcomed as a public service the exposures by the Senate Committee on Civil Liberties of the lawless practices by which trade unions were so long fought and which happily appear now to be largely a matter of history.

The rule of force in industrial relations has been supplanted, with few exceptions, by the the rule of law. It is essential, therefore, that trade unions which now receive governmental recognition and protection should respond by freeing themselves from any remnants of the autocratic practices which accompanied the era of industrial warfare.

It is only reasonable that the law should afford relief to union

members to insure that their leaders should hold office as a result of fair and regular elections, that they should account to the membership for the expenditure of union's funds; that honest opposition to union leadership should be tolerated without penalty; that fair trials with provision for appeals to an impartial tribunal should be afforded to all members, and that no discrimination should be made between members on account of their attitude to the leadership or on the grounds of race, sex, religion, politics, or national origin.

These are elementary principles of democratic fairness. They are guarantees not only for union members but for all of us. Democracy within private agencies as powerful as trade unions goes far toward maintaining democracy in our political life.

We cannot emphasize too strongly that we are dealing not with the main current of American trade unionism, but with exceptional practices—but practices sufficient importance to arouse undeserved prejudice against the trade union movement as a whole. We assert our profound belief that American trade unionism is on the whole democratic, that it is public-spirited, that it is highly patriotic and that it constitutes one of the most progressive forces in American life. Its evils have been exaggerated out of all proportions by a hostile press and by antagonistic employers. It is the function of those of us who endeavor to see fairly the structure and purposes of trade unions to advocate those measures which in the long run will establish them in public confidence as one of the bulwarks of American democracy.

While all of the undersigned join in support of the general objectives of the recommendations, not all agree on all specific items. A few of those with reservations think the recommendations too far-reaching, but most would go further. It would only lead to confusion to publish these reservations now.

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INTRODUCTION

FOR MANY years the American Civil Liberties Union, in the course of protecting civil rights, has been confronted with appeals from trade union members to test in the courts suspensions or expulsions from unions for criticism of union officials or the denial of the democratic right to oppose the union's administration. To these complainants the exercise of their rights as members of unions was even more important than their rights as citizens, for it involved the conduct of their unions in relation to their very livelihood.

Although the American Civil Liberties Union's obligations are essentially the protection of civil rights guaranteed by the constitution, not the denial of rights by private associations, it made exceptions in the case of trade unions. Cases were taken up with trade union officials, and when results were not obtained, arrangements were often made for taking the cases into the courts.

The reason for this exceptional treatment of the rights of trade union members was the Union's conviction—long before the days of the National Labor Relations Act—that freedom of speech, press, assembly in unions, and the right to criticize and oppose union officials was close to our guarantees of political liberty, and, in a field where a man's livelihood was at stake, quite as important. The N.L.R.A. came along later to secure those same rights against interference by employers; the Union protected them against interference by arbitrary union officials. The Union of course supported the N.L.R.A. as it did the Norris-LaGuardia anti-injunction act and all legislation protecting the rights of labor to organize, strike and picket.

The increasing responsibilities placed on trade unions by governmental protection of their democratic rights demand that they in turn accept the responsibility for the democratic conduct of their own affairs. An autocratic union, run without the full participation of its members and without a leadership responsive to its membership, cannot morally claim democratic rights in dealing with employers through the intervention of public agencies.

THIS DEVELOPMENT of the public responsibilities of trade unions, together with continuing complaints of autocratic practices which members sought to bring to the courts with the aid of the Union, prompted in 1941 the creation of a Committee on Trade Union Democracy. The purpose of the committee was to study trade union practices and to suggest remedies for undemocratic procedures which denied to trade union members what may fairly be called their civil rights.

In approaching its task the special committee took into account the traditional policy of the A.C.L.U. to aid labor to secure its rights to organize, strike and picket. The Union has held, by implication at least, that no industrial society can exist on a democratic basis without trade unions sufficiently strong to protect the rights of workers. The Union has to this degree expressed a bias in favor of trade unions.

The A.C.L.U. functions through two types of activity, one of which is its day-by-day work of defending those whose rights and liberties have been attacked, and the other its long-term function of promoting social arrangements in the interest of extending civil rights.

Our study of trade union democracy is part of the Union's long-term function. Its principal usefulness should be found in creating constructive means to avoid turning attacks upon specific abuses within trade unions into attacks upon trade unionism itself. As trade unions increase in power, operating under rights and privileges granted by law, they inevitably become the objects of legislative control. This process has become so usual in American life that most agencies which come to be "vested with a public interest," also become subject to legislative control. But legislative control, considering the pressure on legislatures, is likely to go far beyond reasonable requirements, and to reflect a desire to weaken or destroy unions—as all present tendencies show.

All legislative control should be approached with caution, and its limits carefully defined. For most of the abuses which legislation seeks to correct can be better reached by reforms within the unions, or by resort to the criminal or civil courts—as the recent

history of prosecutions for racketeering and of intervention to force elections or accounting clearly demonstrate.

SUCH ACTION as this study suggests is based first on the assumption that trade unions in their own interest will study their own processes, analyze their public relations, and institute changes to square with democratic practice. Legislation and court action are suggested only to cover exceptional abuses and practices contrary to democratic principles.

We do not deal with all the undemocratic practices of trade unions. We have selected for special study only typical instances involving individual rights and liberties. We assume that wherever there is freedom of opposition in a union, the essence of democracy is present. This is perhaps a too simple test to be relied on in all cases. For freedom to oppose may often be used as a convenient instrument for preventing the majority from functioning.

The problem of relating majority control to minority rights is of course not confined to trade unions. Nor can trade unions be expected at all times to follow wholly democratic procedures. When they are engaged in a life-or-death struggle to attain the right to organize, it would be folly to ask them to postpone every action until it could be done democratically. Under such requirements there would be no trade unions. But when trade unions have, as now, achieved their fundamental rights, and are protected by law in those rights, it is reasonable to expect of them a high standard of democratic procedure.

AMERICAN trade unions are doubtless growing more democratic. This growth is not uniform; there are unfortunate and glaring exceptions. In many unions democratic growth is by no means compatible with their strength and power. Democratic standards, while general, are not sufficiently strong to furnish the friends of trade unions with unquestioning assurances regarding the future. Indeed, enough instances of the contrary are cited to provide their enemies with weapons for an attack upon the trade union movement as a whole.

We do not deal in this survey with racketeering as such, for

that is chiefly a symptom of lack of democracy. Racketeering by definition is the capture of power by force for the purpose of enriching a few individuals through terrorism, bribery and shakedowns. No union controlled by its membership in fact has ever been captured by racketeers, either from inside or outside. Where racketeers gain control by strong-arm methods and intimidation, as they always do, the only effective remedy yet applied is criminal prosecution. But it should be emphasized that racketeering is a phenomenon confined to a very few local unions (with two or three exceptions of national bodies) in the large cities, where it has flourished also in other associations.

It is imperative, if trade unions are to offset the attacks on them, that they should rapidly move to end these abuses which give strength to it. We are not so naive as to believe that even so, the enemies of labor would desist from the attempt to weaken or destroy the unions. But that public support on which they must depend for their success would be greatly weakened by eliminating racketeering, autocratic leadership, membership closed by excessive fees, and by racial and other discriminations. The public welcomes strong, responsible, honest unions, democratically organized and led.

OUR FACTUAL study has been restricted to the internal administration of trade unions. We have not taken up such problems as the check-off of dues, jurisdictional conflicts and the like, since quite different problems are involved.

The first section covers various aspects of trade union government. The second deals with membership requirements and discrimination. The third deals with expulsions and disciplinary action. The fourth discusses the distribution of authority within labor organizations, particularly the powers of union executives and the checks to which they are subject. The final section covers the frequency of conventions, conduct of elections, tenure of office, financial reports, and member participation in the determination of policy. The recommendations both for action by trade unions and in the field of legislation conclude the study.

The material in the study is based in part on hearings conducted by the Committee on Trade Union Democracy from 1941 to 1943, at which trade union officials, public officials and employers' representatives were asked to express their views. The task of collecting and writing up the factual material was done under the direction of Frank C. Pierson, Assistant Professor of Economics at Swarthmore College, with the assistance of Milton Derber, Marjorie Galenson and Leon Rosen — all volunteers. Special thanks are due Norman Perelman, and members of the Legal Survey of the Columbia University Law School for their help.

The members of the Committee on Trade Union Democracy who participated in the conduct of its inquiries and in framing its recommendations were: Prof. Eduard C. Lindeman, chairman; Lucille B. Milner, secretary; Alfred M. Bingham, Prof. Paul Brissenden, Dorothy Dunbar Bromley, Prof. George S. Counts, Osmond K. Fraenkel, Walter Frank, Nathan Greene, Arthur Garfield Hays, Prof. Karl N. Llewellyn, and Norman Thomas. Roger Baldwin assisted in the Committee's inquiry, and has edited this report.

I. RESTRICTIONS ON ADMISSION TO TRADE UNIONS

MORE THAN 13,000,000 jobs in the United States—over a third of those subject to unionization—are covered by collective bargaining agreements. For about 6,000,000 of these jobs, union membership is a condition of employment. In many industries few jobs are open to the non-unionist or to the worker unwilling or unable to join a union. These industries include economic key-points like coal mining, garment manufacture, commercial building, over-the-road trucking, printing and publishing, shipping and long-shore work. The number of industries in which unionism is firmly established has increased so greatly in the past decade, that union membership is already a vital pre-requisite for obtaining or holding a job.

Mechanics of Admission

GENERALLY, union membership is readily available to all workers employed or likely to be employed within the jurisdiction of given unions. Categories and types of workers eligible to membership are defined in the union's constitution. As a rule, admission of members is administered by local unions. These usually, but not always, conform to the policy of the national bodies.

Applicants for membership must normally be approved by a membership or examining committee. Frequently there is also a vote of the local members at a regular membership meeting. These invariably accept the committee's recommendations. Where the local union is dominated by a business agent, his decision is frequently final. In a few unions, such as the Typographers and the Newspaper Guild, rejected candidates may appeal under the constitution to the National Executive Board. This privilege, however, is rarely exercised.

The initiation fee which applicants are generally required to pay is rarely high enough to be an obstacle to membership. Installment payments are usually allowed. A few exceptions are discussed later.

Restrictions on Union Membership

WHILE UNIONS are generally open to all applicants employed within the union's jurisdiction, there are two significant exceptions. There are unions which discriminate against applicants because of their race, religion, political affiliation, national origin, sex or other personal characteristics; and there are unions which restrict the number of their full-fledged members either by outright exclusion of all or most applicants, or by admitting them only on a limited membership basis.

Despite some notable exceptions, the trade union movement has traditionally opposed discrimination against individuals or groups. The A.F. of L. is on record against race discrimination, though many of its constituent autonomous unions practice it; and the CIO has made the fight against discrimination because of race, color, sex or creed a major plank in its program. But unions are composed of rank and file Americans whose prejudices are inevitably reflected in union policy and practice.

Negro Workers

PRIOR TO the New Deal, few Negro workers were members of trade unions. The Negroes were reluctant to join the labor movement; many were imported from the South as strikebreakers on Northern jobs; and it was the long-standing policy of a number of skilled craft unions, which then dominated organized labor, to exclude Negroes from membership.

The past decade has witnessed a marked improvement in the Negro's position in the trade unions. To some extent, discrimination has been reduced in those sectors where it has long flourished. But chiefly the improvement has resulted from the extraordinary growth of unions among unskilled and semi-skilled workers, especially in the mass production industries where many Negroes are employed.

Much of the credit for this belongs to the CIO with its policy of organizing into one union all wage workers employed in a plant. Since its formation in 1935, the CIO has followed a posi-

tive program of improving the Negro worker's status within unions and thereby within industry, not without opposition from some union members.

From its inception in 1886, the A.F. of L. also has had an avowed policy of no discrimination against Negroes. Many of its affiliates—the garment workers, the longshoremen, the teamsters, the hod-carriers, the building service workers—have actively encouraged the organization of Negro workers.

But unlike the CIO, a number of A.F. of L. national unions, including some of the most important, have indulged in discriminatory practices. In large part, unions guilty of discrimination are oldline craft-conscious organizations concerned less with organizing the unorganized than with improving and safeguarding high employment standards for limited membership. Others, like the International Association of Machinists (which withdrew from the A.F. of L. in 1943) are aggressive, expanding organizations unable to eliminate a long-entrenched anti-Negro rule, despite strong internal efforts.

Methods of discrimination vary. Fifteen unions exclude Negroes by explicit constitutional provision or by ritual. These include some of the most powerful unions in the country, such as the Machinists, the Railroad Telegraphers, the Railway Mail Association and the Switchmen, the Commercial Telegraphers—all A.F. of L. affiliates; and the four independent railroad brotherhoods. Five A.F. of L. affiliates, mostly in the building trades, have no rules barring Negroes from membership, but locals exclude them by tacit consent. These are the Plumbers and Steamfitters, the Electrical Workers, the Asbestos Workers, the Flint Glass Workers and the Granite Workers. Seven A.F. of L. and two independent unions confine Negroes to Jim Crow "auxiliaries" where they pay dues but are denied a voice in union affairs and opportunities for advancement in the trade. These include the Boilermakers and Shipbuilders, the Maintenance of Way Employees, the Railway Carmen, the Railway Clerks, the Blacksmiths, the Sheet Metal Workers, the Federation of Rural Letter Carriers, the American Federation of Railroad Workers and the Rural Letter Carriers' Association.

A few locals of the Machinists have admitted Negroes under wartime pressure, but the clause excluding Negroes from membership remains in the union's ritual and this union continues to head the list of twenty-nine labor organizations clearly discriminating against Negroes.

Discrimination against Negroes has been especially widespread in the railroad industry. This is so among the independent Railroad Brotherhoods representing the operating crafts: the engineers, firemen, conductors and trainmen; and among the A.F. of L. unions representing the shop crafts: the telegraphers, the clerks and miscellaneous workers. Only a few unions like the Maintenance of Way Employees which have a large Negro membership do not draw the color line. Membership in the Railroad Brotherhoods is limited to white workers by constitutional provision. As a result, a number of all-Negro or predominantly Negro organizations have sprung up, but only a few like the Sleeping Car Porters and Redcap unions have any real strength. But thirteen railroad and six railway shop unions continue to discriminate against Negroes.

Aliens

THE ORGANIZED labor movement was largely the product of immigrant workers; nevertheless American unions generally have opposed the immigration of foreign-born workmen since the middle of the 19th century. In large measure this opposition has stemmed from two fears: use of the immigrant as a strike-breaker and an over-supply of workers. The longstanding antagonism of the A.F. of L. to immigration has been reflected in the practice of many unions to bar aliens from membership. Three national unions require full citizenship or eligibility to full citizenship of all applicants; twenty-two require first papers. Four unions charge aliens higher initiation fees than citizens; in at least two the amount being prohibitive.

Women Workers

THE PRESSURE of war production and the tremendous need for women in industry has recently focused attention on the fact that a number of trade unions have long excluded women from membership. In 1924 only about 250,000 women were trade

union members; in 1937 about 500,000. But by 1942 the number had risen to 3,500,000, owing to three factors: the general expansion of trade union organization, the increased number of women in industry, the breakdown of union opposition to women members. The organization of the mass production industries during the New Deal period revealed that women could be organized successfully on a large scale. The industrial unions admitted women with men and made equal pay for equal work an important objective. The war has dealt union discrimination against women an additional blow. The United Mine Workers union, among others, has finally removed its constitutional provision excluding women from membership.

But more than 25 national unions still exclude women. About half of these are in the railroad industry, and the rest chiefly in skilled crafts where women are rarely employed.

Political Beliefs

IN ADDITION to Negroes, women and aliens, trade unions occasionally exclude applicants on other grounds. Religious discrimination exists in some unions, but is usually the result of individual prejudice and only rarely trade union policy. A few unions keep out workers for their political beliefs or for belonging to allegedly anti-union organizations. The United Mine Workers exclude Communists, Ku-Klux-Klan adherents and members of the National Civic Federation and the Chamber of Commerce; the United Rubber Workers exclude Communists, Nazis and Fascists; the Brotherhood of Teamsters, the Maintenance of Way Employees and the Bridge, Structural and Ornamental Iron Workers exclude Communists. Some unions also reject IWW members —a relic of an old rivalry. These clauses are rarely put into practical effect.

On the other hand, few unions tolerate dual unionism or accept members who belong to rival labor organizations.

The Civil Liberties Problem

ADMITTANCE to union membership is a civil liberties problem where earning a living depends on union membership, and

where union organization is, to a large extent, under government protection and encouragement. Under these circumstances, union policies and practices restricting membership are a deprivation of civil liberties except as they are designed to preserve the basic structure and existence of the union.

Rejection of applicants on the grounds of race, color, sex, citizenship, religion or political beliefs clearly raises civil liberties issues appropriate for legislation (see page 79).

The Fight Against Discrimination

TRADE UNION discrimination against Negroes has been aggressively fought both within the labor movement and from the outside. A. Philip Randolph, president of the Sleeping Car Porters Union, has raised the issue time and again at A.F. of L. conventions. The National Urban League, the National Association for the Advancement of Colored People and other inter-racial organizations have protested with increasing vigor. Many progressive labor leaders have fought against discrimination within their own unions and within the labor movement in general. As a result of this persistent fight, at least three national unions—the Commercial Telegraphers, the Masters, Mates and Pilots and Railroad Yard Masters—have removed discriminatory clauses from their constitutions during the Thirties.

The war has further reduced discrimination, not only against Negroes but also against aliens, women and other working groups. The main factor here has been the enormous need for manpower in industry. Once Negroes, women and friendly aliens gain a foothold in an industry, unions must either admit them to membership or suffer their competition on a non-union basis.

Another factor against discrimination arising from the war need for maximum power is the Committee on Fair Employment Practice. This was originally formed as an independent agency by Presidential order in June, 1941; subsequently it was placed under the War Manpower Commission, but after undergoing severe criticism for failing to act in the railroad industry, it was reorganized as an independent agency again with new personnel.

The committee's function is to investigate and eliminate employment practices hindering the war effort. It has held hearings in many cities and has gathered a great deal of evidence on discrimination by employers and unions. Most of its orders to eliminate discrimination have been directed against employers, but a few unions have also been told to alter their practices. The committee's chief service has been in publicizing discriminatory practices.

The National War Labor Board has also exercised a powerful influence against discrimination. In several notable decisions, it has established the doctrine of equal pay for equal work, regardless of sex or race.

Five states have passed laws to cope with union discrimination because of race, creed or color. The New York statute makes union denial of membership on these grounds a misdemeanor, but it has not been enforced. The state labor relations acts in Pennsylvania and Wisconsin invalidate closed shop contracts where unions practice discrimination; but these, too, are weak. Appeal to the courts has turned out to be useless because the courts have held that union membership is a privilege not a right. In the absence of appropriate laws, no right exists which can be protected or enforced.

II. THE CLOSED UNION

IN ADDITION to unions which discriminate against applicants on grounds of race, color, sex or political beliefs, there are those which limit the number of full-fledged members and make it difficult for outsiders to join or gain full membership rights. These are called "closed unions."

Unions of this type constitute a small minority in the labor movement. Except in periods of slack employment, they are normally confined to the building trades, the motion picture and theatrical field, a few of the service trades like the building services, some of the distributive trades like food delivery, some branches of printing, like photo-engraving and lithography, and a number of miscellaneous small-scale industries ranging from liquor warehousing to bill posting and diamond cutting.

When the demand for labor declines, the closed union becomes more widespread. It then appears in industries from which it is normally absent: the garment trades, mining, railways.

Two sets of factors have limited the growth of closed unions. The first involves the opposition of the national unions. These prefer more members, more dues, more strength. They are also aware of the dangers in closed unions; they realize that the rejection of many applicants opens the way to strikebreaking on the one hand and dual unionism on the other.

The second set of factors are technical and involve the nature and control of the job market. Closed unions cannot survive unless they fully control a job market. Only through such control can they prevent non-members from underbidding their wages and undermining their standards. Without such control, union employers can be destroyed by the competition of unorganized plants.

To control the job market in a single plant or entire locality a union normally requires the closed or union shop. This alone can insure that all employees are union members or become union members within a given time. In addition to the closed shop, ef-

ficient operation of a closed union also requires control of hiring. It is easier for a union to bar new employees from full membership when it is itself the employment agency than when the employer selects his own employees in the open market.

But even when a closed union has a closed shop contract with particular employers and controls the hiring in these firms, its power may soon dwindle. Workers deprived under these circumstances of job opportunities may offer their services to other employers at much lower rates. Firms unable to operate in the locality because of the closed unions restrictions may move to regions outside the union's control and compete successfully with the unionized firms. Under such circumstances, even closed unions with closed shop contracts may be obliged to revise their membership policy or else lose all their strength.

Where the local union is confined to a single establishment and the regular employee considers himself attached to the plant, the size of the union must be geared to the employment requirements of the plant, and it is not easy for the union to restrict membership below this level. To have the plant regularly manned in part by full-fledged union members and in part by others not admitted to full membership would be disastrous in the long run to production, employee relations and union organization.

On the other hand, opportunities for a union to limit its regular membership are great where the union is city-wide or has its membership distributed among a large number of employees, as is common among crafts and among small unit industries; and where the workers frequently move from one employer to another, as is the practice in the construction industry. Under these circumstances the power to restrict membership is enhanced because the union controls the allocation and assignment of jobs, the employees lack a sense of job ownership, and the union can distribute available work among a smaller membership than would be necessary if each shop had its own supply of union labor. That closed unions will increase in number as unions become stronger and are given more control over job markets seems likely.

Closed unions exist for various reasons. Sometimes member-

ship rolls are closed when there are many more men than jobs. This may be due to economic depression, technological change, or declining demand for an industry's product. During the crisis of the Thirties it was virtually impossible for applicants to enter the railroad unions, the garment trade locals, the printing unions. This was also true wherever the union was strong enough to preserve existing jobs for its members: Similarly, in the Twenties the spread of automatic press-feeding machinery led the press assistants union in New York to reject all new applicants for membership. When the machine replaces skill, some unions fight the new trend by closing their ranks to unskilled machine workers. Such efforts, however, usually end in failure.

The closed union also exists in industries where the demand for labor fluctuates violently from day to day. Failure of other means to regularize casual employment among longshoremen on the Pacific Coast has led the longshoremen's union to limit membership to the size of the working force normally needed. During rush periods, the longshoremen call upon other unions to supply temporary workers. Similar conditions have led to the rise of closed unions in the building trades and motion picture industry.

There are also unions—in the buildings trades, printing, photo engraving, dock checkers in New York, theatrical crafts and glaziers—which restrict their size in order to increase membership benefits to each card-holder.

A final major reason for the closed union is the desire of certain labor leaders to exploit a monopoly situation to their own financial and social benefit. Sometimes racketeers "muscle" into control from the outside. More often, local labor bossism is at the root. Local 3 of the Electrical Workers in New York was in this category for many years, as well as certain motion picture operators' locals in several metropolitan areas. But apart from a few big cities like New York and Chicago, this form of closed union has not flourished.

How Unions Are Closed

UNIONS MAY be closed by outright refusal to accept new members, by high initiation fees and by the permit system.

The simplest, most common method of restricting membership is to close the union rolls and refuse cards to new applicants. Occasionally, at the discretion of the business agent or executive board, a friend or relative may be admitted by way of exception.

In skilled crafts, joining the union is often regulated by strict aptitude tests, while entrance into the trade is controlled by entrance regulations. In a few cases, like the Chicago motion picture operating field, the union has been responsible for a law requiring all who want to be operators to be licensed by the city before entering the trade. The examining board usually includes one or more union representatives.

Often membership is restricted, by the constitution or by tacit agreement, to sons or close relatives of members. Applicants have also been kept out by excessive initiation fees. Again, some unions allow men to work by special permit without becoming members, or by admitting employees into the union with grade B or non-voting status.

It is not uncommon for a closed union to use a combination of these methods.

Regulating Apprenticeship

IT MUST be kept in mind that these methods in themselves are not signs of a closed union. Unions with a voice in regulating apprenticeship, for example, are often accused of being responsible for the shortage of apprentices in various skilled trades. Yet it has been demonstrated again and again that employers have not indentured as many apprentices as union rules permit.

High Initiation Fees

SIMILARLY, high initiation fees are not necessarily proof that the union is closed. Many closed unions have moderate initiation fees while some open unions have fairly high fees. The $50 to $100 fee common in the building trades has a double purpose: to discourage the influx of casual or migrant workers and to increase the local union treasury.

Yet, on the admission of union officials, there are fees designed to limit union membership. The New York checkers local of the Longshoremen's union charges a $500 fee in advance; the Motion Picture Operators locals of New York, Chicago and other cities have levied fees ranging from $300 to $1000. Local 644, Photographers of the Motion Picture Industry, affiliated with the International Association of Theatrical Stage Employees, has required $500 on application and $500 on admission. Other locals with initiation fees from $200 to $500 have been the Elevator Constructors, the Cement Masons, the Motion Picture Studio Mechanics, The Bill Posters and Billers of America, and the Carpet and Linoleum Layers—all in New York City; the glaziers in Cincinnati; the Electrical Workers in Perth Amboy and Cleveland; and the Chicago Flat Janitors.

Permit Cards

SOME UNIONS issue "permit" or "privilege" cards to non-members for a weekly fee of one or more dollars which allows them to work with union members. This system exists in trades where the labor demand fluctuates considerably; it enables the union to assure as much steady work as possible for its regular members.

The permit system has been prevalent in the building trades, notably among electricians and carpenters. The national unions, however, have strongly resisted this system because of potential abuses and the danger of disgruntled permit men becoming strike-breakers. This opposition has effectively curbed the growth of the permit system.

Permit cards were used, however, in the 1940-41 construction of army camps. They are still employed to some extent in the building and metal trades, trucking, various small miscellaneous services and specialized manufacturing establishments in metropolitan areas. They also exist in a few large manufacturing industries with seasonal peaks like brewing.

The permit system serves a legitimate function when it enables unions to regularize employment for their members; but it also enables closed unions to capitalize on their economic monopoly.

Like the high initiation fee, it serves to enrich the union treasury. In a few notorious cases (the Chicago motion picture operators from 1925 to 1935) permit men who paid very substantial fees held more jobs than regular union members.

Civil Liberties Issues

FEW CLOSED unions function on an open shop basis. As a rule they become complete monopolies; thereby the excluded applicant is deprived of the opportunity to earn a living in the specific job market. The closed union under a closed shop poses a civil liberties problem of the right to work, but in some cases the test of public welfare is not easy to evaluate. Under peacetime conditions, unions may jeopardize their existence and the livelihood of their members by admitting all jobless applicants regardless of conditions in the job market and chances for employment.

But where the reason for the closed union is to enrich the union treasury, to maintain minority control, to benefit a few at the expense of the many, to promote racketeering or to deprive already employed workers of their jobs, a clear civil liberties issue is involved.

Some Remedies

ATTEMPTS to remedy or forestall closed union abuses have been few. Some employers have agreed to the closed or preferential shop only upon inclusion within the contract of a guarantee by the union it will not exclude new applicants. Contracts of the Amalgamated Clothing Workers in Chicago and Milwaukee provide for the open union and reasonable dues and initiation fees. The New York silk industry agreement from April 1920 to June 1923 conferred upon the impartial chairman or arbiter authority to alter amounts and dates of payment of initiation fees, assessments and penalties if they appeared burdensome. In 1924, Equity agreed with the Managers Protective Association for a 25 year period to keep the union open and not to raise the initiation fee without the managers' consent.

But this method of eliminating abuses is usually ineffective.

Either the closed union taking advantage of its monopoly is too strong for the employer to compel an Equity type of provision in the contract, or it works hand in hand with the employer who cares little for trade union democracy.

Certain national unions have taken steps against closed union abuses by locals. The painters, the lathers, the printing pressmen and the musicians have employed constitutional amendments or national executive board action forbidding locals to exclude "travelers,"—union members from other cities. Some national unions limit the local initiation fees. Others, like the International Union of Operating Engineers, forbid the permit system.

But national unions have not met the closed union problem effectively. For administrative reasons, admission to membership must be left to the locals. Rejected applicants are not likely to appeal to the national executive board; as a rule they do not know that such appeals are considered. Besides, time, distance and expense are involved in such appeals. As a result, the national is often unaware of the existing abuses.

In some cases, national leadership does not interfere with the local for personal or political reasons; in others, the national body is not strong enough to discipline the local, even if it wants to. Notorious closed union abuses by Local 3 of the Brotherhood of Electrical Workers and the Motion Picture Operators Union in New York and Chicago during the Twenties and much of the Thirties were halted or reduced only after years of court appeals, aroused public opinion and internal local conflict. Local 3 still maintains a subordinate status for the bulk of its members. Only a minority group—the electricians—have a voice in the election of officers and the appointment of business agents for the entire local.

Court Decisions

So far, the courts have played a negligible role in the closed union question. As in other cases of discrimination, the courts usually rule that until a worker is admitted to union membership, no right exists which they can protect and enforce—as long as

no statute is applicable. Membership in a union is held to be not a right but a privilege.

There are at least three court decisions, however, based on a more realistic approach. In 1935, a New Jersey court ruled in the case of a union which, contrary to its by-laws, admitted various people as junior or Grade B members and denied them the right to vote. The court ordered the union to give them full membership rights. In two other cases, the courts ruled that if a union has a closed shop contract covering an entire industry, it cannot refuse membership to qualified applicants already working in the industry on the ground that it has enough members to fill all positions and wishes to help its unemployed.

Any solution for closed union abuses must achieve four main results: (1) Admission to full membership of all qualified employees after a probation period of, at most, thirty to ninety days service, rejections to be made only for valid personal reasons; this would fit in with the common contract provision for a probationary period for new employees during which the employer may discharge the newcomer without appeal by the union; (2) limitation of the permit system to temporary employees, hired for less than thirty to ninety days; (3) elimination of high initiation fees and reduction of permit card fees to a reasonable level; (4) admittance of all qualified applicants in accordance with the condition of the job market.

III. DISCIPLINARY ACTION BY TRADE UNIONS

The Civil Liberties Issue

PROBLEMS involving civil rights become very acute at those points where the trade union seeks to discipline individual members, officers, minority groups or local affiliates.

Disciplinary actions vary. They range all the way from a mere threat to impose a fine to permanent expulsion; they may apply to a single worker or to a large local group.

Some people believe that a union, like a social or fraternal organization, should be free to impose whatever penalties it sees fit on members violating its rules and regulations; unions are private not public bodies; even if a worker is expelled from the union, he still retains all the civil rights guaranteed by the U.S. Constitution; unions must have the power to discipline or expel members for cause, otherwise their effectiveness is impaired and their enemies could easily destroy them,

Another view holds, however, that trade union disciplinary actions involve civil rights whenever an accused member fails to get full opportunity to answer charges against him before an impartial trial body or where the action is based on vague or insufficient grounds.

This view is based on the assumption that unions are not private or social organizations. They have considerable control over employment opportunities. Workers in disfavor with union officials can easily be victimized. The civil rights to which American citizens are entitled by law such as free speech, and the right to fair trial lose all meaning unless extended to situations of this kind. This is particularly true where there is a closed shop contract and union membership is a pre-requisite for getting and holding a job; it is also true where a union has a preferential contract or exclusive bargaining rights.

Civil Rights and Union Duties

HOW FAR can unions go in protecting the civil rights of members in disciplinary cases without impairing the essential strength of the organization? This is one of the issues involved in determining on what grounds expulsion or other disciplinary actions should be based.

Sometimes members go outside the union to criticize its leaders and publish newspaper statements attacking the conduct of the union's affairs. There have been cases where such members were brought up on charges of creating disunity among the membership, indulging in malicious slander and besmirching the union's good name. To this the accused replied that the union's officers were more interested in political movements than in collective bargaining problems and that union meetings were conducted in a highly undemocratic manner; they maintained that opposition groups had to go outside the union to present their case to the membership because the union newspaper was closed to them.

From a civil liberties viewpoint, it seems clear that in such cases the members are within their rights in presenting their views outside the union. But the problem is often more complex. Sometimes minority groups within unions oppose duly authorized strikes or openly flout orders to serve on picket lines. Opposition groups may refuse to pay dues in protest against allegedly abusive leadership. Members may violate the provisions of union contracts by accepting less than standard wages. Under the latter circumstances delinquent workers may argue that their employer offered one of two alternatives: work at less than union rates or no work at all. By the union's insistence that they be paid the standard rate, these workers claim, they are deprived of the right to make a living.

Clearly a union must retain sufficient disciplinary powers to prevent such groups from undermining its effectiveness. A distinction must be drawn between the civil rights of individual members and their personal interests. Members should not be penalized or expelled for activities involving their basic democratic rights. These include: (1) the right to criticize union officers; (2) the right to inform fellow members of their opposition;

(3) the right to organize groups within the union to oppose the administration; (4) the right—where information channels within the union are closed—of voicing protests outside the union.

But members should be disciplined and, if necessary, expelled for actions detrimental to the union. These include: (1) refusal to pay dues; (2) receiving pay as an agent of an employer or of some rival labor group; (3) violating working or wage rules of the union contract with the employer; (4) violating duly authorized orders normally given in connection with strikes or other necessary union activities.

The distinction is between a member who expresses opposition views in an effort to strengthen his union through internal reforms; and one who, for personal economic advantage or out of loyalty to some other organization, disregards his obligations to his union, and commits acts which show he no longer wants to be a member or actually wants to destroy the organization.

The Courts on Union Discipline

IN RULING on union disciplinary proceedings the courts have been governed by many of the same considerations as those just outlined. As to procedural requirements in expulsion cases the courts have applied three general tests to determine the legality or illegality of trade union proceedings: whether the trial proceedings conformed with union rules; whether the trial was conducted fairly, impartially and in good faith; whether the rules and regulations of the union met the requirements of "natural justice."

The courts have held that at least the following factors are essential for a trial to conform to "natural justice": (1) notice in writing of charges far enough in advance of the trial to afford the accused reasonable time to prepare a defense; (2) a fair hearing and the right of appeal to a higher tribunal within the union; (3) separation between the trial and the prosecuting body of the union; (4) absence of hostility and prejudice against the accused on the part of trial board members.

On the other hand, the courts have held in at least one case that

an aggrieved union member has no right to a bill of particulars or to counsel, and that he need not be informed of consultations held on his case.

Furthermore, courts generally require members to exhaust all remedies within the union before obtaining judicial review, with three main exceptions: where the accused seeks damages; where the trial body has shown bad faith; and where further appeal within the union would be futile.

In many cases the appellate tribunal of the union is its national convention. The main difficulty here is that this may not meet for a year or more after the penalty has been imposed. Some courts have exercised jurisdiction in such cases, but in at least one instance a court has refused to do so. Considering these circumstances, serious violations of civil liberties may be involved where a penalty is levied prior to adjudication by the appellate body.

As to substantive considerations the courts have ruled in favor of union members expelled for (1) defamatory statements in a letter criticizing local union officials; (2) criticism of officials in the press; (3) violation of a union law "forbidding members to carry on union business outside of meeting or executive board rooms"; (4) participation in an unauthorized strike; (5) failure to pay insurance policy premiums; (6) continuing work during a strike.

Courts have ruled against union members expelled for (1) accepting less than union wages; (2) failure to pay a per capita tax; (3) failure to pay back dues; (4) participating in or giving aid to a rival union; (5) acting in the interests of the employer or contrary to the interests of the union.

Some courts refuse to exercise jurisdiction in union disciplinary cases unless some property interest of the member is involved. But where jurisdiction is affirmed, the courts have differentiated between the individual's freedom to criticize and oppose union leaders on the one hand, and on the other his obligation to recognize union duties and responsibilities.

Current Union Practice

TO DETERMINE the position of the unions regarding disciplinary action, the authors of this report have analyzed thirty-eight union constitutions, more than thirty court actions and about twenty cases recorded in union trial proceedings and union publications.

Generally union constitutions provide that charges against members shall be heard first by the local executive board or a special trial committee. Their findings are then passed upon by the local membership. If appealed, the case goes to the executive board of the district organization, from there to the general executive board, and finally to the national convention.

With slight variations, this is the procedure called for by the constitutions of the Textile Workers, Amalgamated Clothing Workers, Teamsters, Molders, Railway Clerks, Electrical and Radio Workers and many other unions.

In a few instances—such as the Machinists, Longshoremen and Warehousemen and Bakery unions—the referendum is an alternative court of last appeal. In the Newspaper Guild the sole court of last resort from charges against officers is the general membership.

In several unions there is no appeal from the executive board; its decision is final. This is the rule in the Longshoremen's Association and, except in cases involving officers, in the Brewery Workers. The right of appeal in the Mine Workers ends with the district board unless membership is at stake. Here the case may be appealed to the international executive board and the convention. Similarly, in the Musicians' Union the executive board's decision may be appealed to the convention only if expulsion is involved or a fine of $500 or more. In unions where the president enters the case, his part in handling appeals is subordinate to that of the executive board.

Analagous to actions against individual members are actions involving the suspension, reorganization or expulsion of local unions. In about half of the unions examined, authority to take

such action is vested in the national president; in the others, power is in the hands of the general executive board. In some instances, both may act. Occasionally, where the president has the power to suspend a local, only the executive board or convention can take the more drastic step of expulsion. Sometimes the executive board is similarly limited and sole power to expel is vested in the convention.

An unusually clear procedure is contained in the Auto Workers constitution which provides that the executive board may revoke charters and reorganize subordinate bodies: (1) by majority vote, in case of disputes or conditions within the local that might threaten its existence, the executive board may reorganize it by ordering a special election. This may be done no more than once a year. The elected officers may hold office until the re-election and may run for re-election. (b) By 2/3 vote, for violation of the constitution or laws, or internal disputes, the executive board may, after a hearing, revoke the charter or suspend the officers and take over the supervision of the local. Such supervision may continue until the affairs of the local have been properly adjusted. If the officers were suspended, a new election must be held within 60 days, and the local returned to its autonomy.

The authors of this report have examined some fifty disciplinary cases, most of them involving expulsion. The cases are of four general types: (1) disciplinary actions for violating strike orders, wage standards, dues payments or other specific membership obligations; (2) actions to halt embarrassing or injurious criticism inside or outside the union; (3) actions arising from differences in political viewpoint or "union philosophy"; (4) actions to forestall the overthrow of the administration in power.

Most disciplinary cases are in the first group. Union publications like the ILGWU *Justice* and the United Mine Workers *Journal* reveal many instances where workers have been fined or otherwise penalized by the union for working overtime illegally, accepting less than standard wages or violating other important union rules.

An editorial in the July 1942 *International Teamster,* for ex-

ample, urged local union officers to prefer charges against members refusing to return to work when ordered, saying: "Such men should be suspended for an indefinite period or expelled."

Some Court Cases

IN ONE court case a local teamster's official in Iowa called a strike without the two-thirds vote required by the union constitution. On the employer's petition, the court enjoined the strike and the union official cancelled his strike order. Later some of the drivers went back to work, but the local's executive committee suspended them for returning to work during the strike. The court ruled that the suspension was unjustified since the drivers returned to their jobs after the injunction was issued. No charges were filed against them by the union.

During 1941, a group of union members sued for reinstatement in a union from which they had been expelled for accepting wages below union scale. The court dismissed the complaint on the grounds that: (1) the accused members were notified in writing of the hearing at which the charges against them were considered; (2) the union's executive board was duly authorized to hear the charges; (3) the members were not prosecuted unfairly or in bad faith; (4) the charges were sustained within the laws and rules of the union.

The court made a similar finding when a plumbers' local union ordered the workers off a company's payroll for a period of one year when it discovered they had been getting less than standard wages.

Another instructive case involved a Boston local of the American Federation of Musicians. A contract signed by a union member as leader of a ten-man band was cancelled by the executive board because he had not submitted it for the board's approval as provided by the local by-laws. The band leader was also fined $500; following threats of suspension or expulsion from the union, members of the band refused to play under that leader. When the case was taken to court, the bench ruled that the union had unlawfully conspired to prevent these members from carrying

out their contract and deprived their employer of free access to the market for musical talent.

Another case involved a member of the Newark Newspaper Guild charged with having interests on the side of the employer. The worker received due notice of his hearing before the union's executive board. He was free to present witnesses and state his case. The decision went against him and he appealed to the Guild membership. A trial board was selected including representatives from the accused's own newspaper, and he was again given full opportunity to state his case. Once more the decision went against him and once more he appealed to the membership, but the members sustained the trial board. This time he took his case to the courts, and here the action of the Guild in expelling him was upheld.

Fighting the Administration

IN ANOTHER class are those cases which result from attempts by union officials to silence charges of financial irregularity or other misconduct on their part.

A member of the Musicians Union, Local 802, New York, charged that the 1936 election of officers was fraudulent and urged a new election under impartial auspices. He was brought up before the trial board and expelled from the union. When he sued for reinstatement, a New York Court ruled in 1941 in his favor because the trial board which had expelled him contained union officers involved in his accusations.

In another case, the Brewery Workers expelled a member who had opposed union policies. He sued for reinstatement. The court ruled in his favor because the union officials had deliberately failed to record the name of a witness in the minutes of the trial board. This robbed the accused of a chance to appeal effectively to the executive board of the international union.

In a local Bill Posters union, a member objected to handing over part of his wages to certain union officials. He was expelled for bringing court action to recover these "kick-backs." He went to court again and sued for reinstatement as a member of the

union. The court ruled in his favor. It held that the grounds on which he had been expelled were invalid: the technical charge was that appealing to the courts to recover kick-backs was a violation of the union's constitutional provision forbidding members to conduct any union business outside of meeting or executive board rooms.

Another case involved a New Jersey teamster who had been a driver for nineteen years. He fought for improvements in working conditions. Despite vigorous opposition by the union administration, he was elected shop chairman for his "barn." Two union members then charged him with making derogatory remarks about the local's president and vice-president. On this charge he was expelled. He sued for reinstatement, and the court found that no charges were served and no hearings held. Nevertheless the complaint was dismissed because the worker had failed to exhaust all remedies available to him within the union.

In another case the president of the Paint and Varnish Workers Union, A.F. of L., charged a member with seeking to remove him from office. Thereupon the executive board expelled the member from the union. Court action in this case is pending.

Other unions involved in cases of this kind are the Carpenters, Motion Picture Operators, Buildings Service, Painters and Retail Clerks.

Political Differences

A THIRD GROUP of cases arise out of differences in political viewpoints. The best known examples are disciplinary actions arising out of charges that certain officers or members are serving the interests of Communist, Socialist or other political groups at the expense of more immediate union aims.

Defeated groups within a union, radical or conservative, frequently maintain that the administration suppresses their right of free speech and fair trial and treats opposition in an arbitrary, undemocratic manner. The group in power, on the other hand, often maintains that the opposition represents a minority of the membership and must be expelled to maintain organizational unity.

Methods in conflicts of this kind vary, but their essential character is more or less the same whether the group in power is "non-political," Socialist or Communist.

Left and Right Wings

In 1922, for example, a left wing group secured control of two important New York locals in the furrier's union. But the administration of the International Union threw them out of office "for the good of the union" and suspended them from membership. Three years later, the left wing won control of the New York Joint Board. Following the 1926 strike, the International expelled the left wing leaders and dissolved the Joint Board. Subsequently, the A.F. of L. appointed Edward McGrady, Matthew Woll and Hugh Frayne to reorganize the Furrier's Union. Apparently most of the New York members supported the left wing leaders; these were able to form another organization which became the most important in the industry.

Another conflict between left and right wings rocked the International Ladies Garment Workers Union between 1923 and 1928. Early in the Twenties, the officers of the International, headed by Morris Sigman, frequently expelled members in an effort to halt left wing agitation. But in 1925 the left wing group gained control of the three largest New York locals and a temporary truce was reached. In 1926 there was a strike in the New York cloak market. On this occasion, the International took over the affairs of the three locals and expelled many of the left wing leaders. The left group charged the administration with undemocratic tactics and formed an independent union. Numerically this was never very strong, but its existence nearly reduced the ILGWU to impotence.

During this period, Sidney Hillman faced similar threats to his leadership in the Amalgamated Clothing Workers. He, too, resorted to expelling left wingers. Under his aggressive tactics, the left wing made little headway in the men's clothing field.

More recently (1941) the executive committee of the New York Newspaper Guild brought charges against the ILGWU

publications' unit for criticizing the local's leadership in connection with a strike called against the *Jewish Day* and for failing to join a picket line. According to the eleven members of the ILGWU unit, the strike was inspired by *The Freiheit,* Jewish Communist daily, in an effort to break up a non-Communist union which had had a contract with *The Day* for many years. In accordance with the Guild's constitution, the members elected a trial board of five to hear the charges. There was a full hearing at which each side was given an opportunity to state its case and present witnesses. The trial board ruled that the accused should not be deprived of membership or penalized in any other way.

Another case (1941) involved the editor of an opposition paper *We Pay Dues Too* in a State, County and Municipal Workers local of New York. He vigorously attacked the union leaders for following the Communist Party line. The administration tried him on charges of saying in his paper that union officials had opposed the Selective Service Act before and after its enactment. At the executive board hearing he was charged with wilful, deliberate misrepresentation of the union's position. Defense counsel replied that the local had sent delegates to the American Peace Mobilization conference in April 1941, showing the union officers had followed the Communist Party line and opposed the Selective Service Act. The defense also argued that the executive board was biased and urged that the trial body be elected by the membership. The executive board—consisting of the officials accused of Communist policy — sat in judgment against their political opponent and suspended him from the union for a year. He sued in the courts, and the case is now pending.

In still another case, officers of Local 100 of the Transport Workers Union brought charges against a member who had accused them of accepting Communist Party orders. This member had claimed that the union officials had even misappropriated funds to help return soldiers from the Spanish civil war. The trial board recommended that the worker be expelled for circulating false reports among the membership. The recommendation was approved by the local's executive board, the joint executive committee and all but one of the union sections involved in the controversy. When the worker sued, the New York State

Supreme Court ordered the union to reinstate him without prejudice.

Other cases involving the political activities of union officials or members have arisen in the United Mine Workers, United Automobile Workers, American Federation of Teachers, United Federal Workers, National Maritime Union, International Teamsters and many other labor organizations.

Intrusion of political party interests in union affairs marks a considerable number of unions, and is frequently accomplished by manipulation by a minority of democratic procedure, through such tactics as attending and voting in blocs, caucusing in advance, or wearing out the majority in meetings protracted by parliamentary wrangling. Communist Party members, and in less degree, members of other minority political groups, have resorted to these tactics. They manage thus first to get a toe hold, then a foot hold and then places on the key committee or in the key offices. The same abuse of democratic processes is of course familiar in other associations, and is overcome only by superior resourcefulness and organization by the majority.

The Struggle for Power

DISCIPLINARY actions sometimes crop up from internal union struggles where differences in trade union or political philosophy become battles for organizational control.

A striking example of this is the fight which John L. Lewis conducted against Alexander Howat for control of the United Mine Workers in the Twenties. The struggle ended in Howat's expulsion. Later John Brophy and Powers Hapgood led an opposition movement against Lewis, but in 1928 he succeeded in expelling them. Subsequently Lewis used expulsion to maintain control of District 12, Illinois, but the members revolted and in 1932 organized the Progressive Miners of America.

Another instance of the extremes to which union leaders may go in combatting opposition is the way Major George Berry handled the New York printing pressmen's strike in 1923. This

local struck without the International's sanction and in violation of an arbitration clause. Berry thereupon revoked the local's charter, suspended the entire membership and telegraphed pressmen's locals throughout the country to send men to New York to take their jobs. Despite strong opposition, Berry retained power and won acceptance of his policies.

Conflicts for control are often confined to a single local or district organization. Recently one group in an Operative Plasterers local in Pennsylvania called a strike against the wishes of their opponents. These called in a representative of the International who promptly expelled the strike group and reorganized the local. Suit was brought and the court ordered the union to reinstate the expelled group.

In one unusual case, a dissident group of the United Mine Workers formed a new local. Thereupon the officers of the old local signed agreements with certain mines providing that the management would dismiss members of the dissident group. The new local went to court and secured an injunction protecting them in their jobs.

In another case, bitter conflict broke out between two locals of the Furniture Workers Union. In support of the group favorable to its interests, the administration of the International suspended the opposition local, deprived it of its charter and records without notice and transferred its assets to the rival organization. The suspended group tried to appeal from the acts of the International; but the union's appellate tribunal ignored its communication. On these grounds, a court ruled that the suspended local be reinstated and its assets returned.

Disciplinary cases investigated for this report show that many unions scrupulously safeguard the rights and interests of their members. But there is evidence enough that union leaders sometimes abuse their disciplinary powers. This is especially true where their control is tainted with illegality or where an opposition group is making substantial headway.

Members deprived of civil rights in these circumstances may

be able to secure relief from the courts. But many courts hesitate to take jurisdiction unless property interests are involved and all remedies within the union have been exhausted. Besides, legal action is too expensive in time and money for the average union member.

Another means of control of opposition is to be found in job placements. Although unquestionably there is a good deal of playing favorites, usually it is so vital a bread-and-butter question that the sheer weight of pressure from the rank and file compels the leadership to inaugurate some sort of a share-the-work job routine program, operating automatically through the union headquarters or by contract provision with the employer. Workers who would protest over virtually no other abuse of unionism will protest loudly and vigorously against any unfairness in job placement.

In certain building trades, with tight little cliques in power, discrimination in job placement is often used to penalize opposition groups. In mass industries, by the very nature of the employment, it is almost impossible to use that pressure. Remedies are impracticable by any means other than democratic controls by the membership.

IV. DIVISION OF POWER

Union Zones of Authority

THE INTERNAL government of unions is organized on three levels: national, district and local. In the national organization is usually vested control over broad questions of policy, like constitutional changes, organizing campaigns and general strikes. The local administration usually controls dues collection, initial dealings over grievances and participation in city politics. Least in importance are district organizations. Their role in framing contracts and handling strikes is overshadowed by the national or local bodies.

Locals influence national and district policies chiefly through the delegates they elect to conventions. On the other hand, the national administration usually has important controls over the activities of locals. Out of 54 constitutions examined, 44 explicitly provide some control over local policies by international officers. Frequently the grant of power is broad. Locals are usually obliged not to do anything "detrimental to the interests of the union." They must make reports to the national body. They may not disobey mandates of the executive board or national convention.

The Civil Liberties Issue

WITHIN national, district and local bodies, authority is divided between the executive and the electorate. The former includes all elected officials and their appointees; the latter, the union members and their delegates.

Problems of democratic control arise in all three spheres of administration. In each the basic question is whether the members or their representatives have a genuine opportunity to participate in framing policy. There is the further question whether members or their representatives actually utilize available instruments of control. The first is a matter of civil rights; the second, how they are used.

Aside from rights affecting entrance requirements and disciplinary actions already discussed, the following are some out-

standing civil rights which should be available to union members:

(1) Full, detailed reports to the members or their delegates, including reports on finances and on important actions of the executive officers and executive board.

(2) Freedom to express rival views at meetings, on convention floors and in union publications.

(3) Full opportunity for members or their delegates to approve or disapprove policy-making decisions, meetings for this purpose to be held at frequent and regular intervals.

(4) Election of principal officers at regular intervals by secret ballot of the members or their delegates, with provision for impeachment or recall where required.

(5) Freedom to alter the terms of the constitution either by initiative, referendum or other democratic means.

These are all essential rights of union members and warrant protection. But even where such rights are recognized and given effect, genuine democratic control may not be achieved. There is always the possibility that these rights may not be used. Members may not carefully read their officers' reports; they may not take advantage of the right of criticism, or weigh the merits of a proposed policy, or exercise the right to vote. There is also the possibility that leaders will play off one group against another, or use mass propaganda techniques to further personal interests.

Limits to Individual Freedom

THE CIVIL rights of union members are conditioned by certain necessary limitations upon individual action. The right to criticize and the right to appeal from executive decisions are basic; but a minority group can hardly be allowed to block officials in their regular administrative duties or in carrying out duly authorized policies. Even in formulating general policies, considerable latitude must be granted to national executive officers if the union is to function properly.

In the case of the United Mine Workers, attempts by locals or districts to act on their own initiative have had disastrous

results. This union has made tremendous progress through the development of a national wage program depriving local and district bodies of the right to make contracts on their own authority.

In most union activities—especially strikes, boycotts and wage negotiations—there are obvious advantages to centralized control. All that can be reasonably required is that the members or their delegates be given genuine opportunity to pass on general policies before these are adopted, that they be kept fully informed of their officers' activities, and that they be free to approve or disapprove their conduct.

Whether national unions recognize these standards may be judged by: (1) the powers of executive officers; (2) checks upon officers available to members or their delegates; (3) the right of criticism; (4) the conduct of elections; (5) the formulation of policy.

National Authority

THE SUPREME authority in most unions is the national convention. A study of fifty-four union constitutions shows that in almost every instance the national convention has sole power to pass laws and determine policy regulating the union's general conduct. The national officers and executive board are required to present reports on their work to the convention; their decisions are subject to the convention's approval.

Between conventions, all executive and judicial powers are vested in the national executive board. Unless and until it is overruled by the convention, it decides all points of law, claims, grievances and appeals. It may grant or revoke charters, fill vacancies, suspend officers. It supervises the union's financial affairs. It can rescind, reverse or repeal any action of the international officers or their representatives.

Between meetings of the national executive board, the union's affairs are directed by the national president. Under most of the fifty-four constitutions examined for this report, the president is empowered to convene the board whenever he deems necessary;

but he must report his activities at all meetings and is responsible to the board for the conduct of his office. Subject to executive board approval, he appoints union organizers, supervises organizing campaigns, handles disputes between employers and employees, and adjusts differences within or between locals. The president also decides questions of law and appeals, but his decisions may be appealed to the executive board. Unless otherwise provided for, he appoints all convention or national committees and enforces all laws, rules and regulations adopted by the executive board and convention.

Only one of the fifty-four unions investigated has a constitution which does not provide for some system of checks and balances. The constitution of the American Federation of Musicians gives the president automatic power to make decisions in cases where he thinks an emergency exists, binding on all members and locals. Whenever he thinks necessary, he may enforce the constitution or annul and set it aside or any part of it, except those covering union finances; and may substitute "other and different provisions of his own making."

Under most union constitutions, however, authority over national affairs is largely divided between the president and other executive officers, the executive board and the convention. Basic union law is essentially democratic. But there are many opportunities for dictatorial control. These are due chiefly to two sets of factors: the wide powers vested in national presidents and executive boards, and the manner in which national conventions are organized and run.

Presidential Appointment

IN MOST unions, the president appoints all committees at national conventions. Of the 54 unions studied, only two—the Shoe Workers and Maritime unions—elect their committees at conventions. In all other cases, the convention delegates submit their proposals to committees appointed by the president who thus has a major voice in convention decisions.

The credentials committee is of crucial importance. No dele-

gate can be seated without its approval; in this way it can exercise tremendous control over the makeup of the convention and the outcome of the battle for control.

How the credentials committee is selected is one clue to the degree of democracy in a trade union. Some unions do not give their president power to appoint the credentials committee, even when he appoints all others. This is so, for example, in the Transport Workers, Electrical Workers and Machinists unions, where the executive board constitutes the credentials committee. In the United Mine Workers and the Boot and Shoe Workers, the credentials committee is made up of elected auditors.

At the other extreme are those unions whose president appoints the credentials committee regardless of how other committees are chosen. This is so in the Tobacco Workers, Hod Carriers, Teamsters and Railway Clerks. In many unions—including the American Federation of Teachers, Office Workers, Bakery Workers and Ladies Garment Workers — the credentials committee is appointed by the executive board.

The Union Organizer

WHO SELECTS the union organizer is another key question for trade union democracy. The organizer is the chief representative of the national office in its dealings with local union members. As liaison officials, the organizers are in a strategic position to influence local policies and attitudes on the one hand, and the decisions of national leaders on the other.

Of 41 union constitutions in which the subject is mentioned the power of appointing organizers is granted to the president alone in thirteen, to the president with the approval of the executive board in twenty-two and to the executive board alone in only six. Thus, in most cases the president decides who the organizers shall be. He supervises their work; they report and are responsible to him. Only one constitution—that of the Molders—provides that organizers' reports must be accessible to members in the union journal.

The President and Discipline

THE PART played by national presidents in disciplinary actions is considerable. In forty-four union constitutions with provisions on this point, power to expel locals is divided about equally between presidents and executive boards. In almost every case, however, appeal is allowed to some higher union tribunal. In four unions where the president has the power to suspend, only the executive board or convention may expel.

In some unions the president also has authority to reorganize or take over the administration of local unions when circumstances warrant.

The grounds on which a president may suspend, expel or reorganize a union are sometimes enumerated in detail by the constitution; but in most cases the wording is general and vague.

The Executive Board

THE EXECUTIVE board is the supreme authority between conventions. It has the power to supervise the national president and other officers. An independent executive board can thus check the broad powers of the president; a weak or subservient board strengthens them.

Usually the national executive board is made up of the president, secretary-treasurer and vice-presidents of the national union. Vice-presidents are elected by members in the districts, by district delegates or by vote of the entire national convention. Often executive board members are the chief executive officers of the various district organizations.

Executive boards usually consist of ten to twenty-five members; but in some unions, like the Transport Workers, membership is much larger.

A good test of executive board independence is the frequency or occasion of its meetings. Twenty-nine constitutions with provisions on this point were examined. Most of them provide either

that the board must have a fixed minimum number of meetings a year, or that meetings can be convened by board members without presidential action. The Textile Workers, Hosiery Workers, Marine Workers, ILGWU, the Transport Workers, and other unions have both provisions.

Executive Board Powers

ON PAPER executive boards have adequate authority to check abuses by national officials. The problem is lack of incentive. Too often the interests of the president and the executive board are identical. What unionists call the "official family," usually includes the chief national officers and executive board members along with various key local officials.

Before an issue is referred to the convention or the membership at large, the "official family" usually agrees on the position it will take. The weight of its influence is usually enough to carry the day.

In return for support at conventions, the national leaders may give executive board members wide powers in running their district or region. Board members make similar deals with local leaders. In this way the dominant group may gain control of all important union positions.

As long as there is no serious dissension within the "official family," opposition rarely makes much headway. The close links which usually exist between executive boards, national officers and powerful local leaders are perhaps the most serious barrier to genuine democracy in many American trade unions.

The National Convention

AN IMPORTANT means of checking arbitrary action by national officers is afforded at conventions. Here national officers must win from the members' representatives endorsement for past policies and approval of proposed actions. Here, too, opposition groups have the chance to criticize the official family and to press for important changes in policy.

The most serious limitation to the effectiveness of conventions is

their size. In fact most conventions are so large that active participation by the average delegate in floor discussions is almost impossible. Conventions of the smaller unions consist of only one or two hundred delegates; but in the larger unions, like the Teamsters and Carpenters, they number well over a thousand.

On the other hand, most unions observe commonly accepted standards of democratic procedure in apportioning delegates among locals. Thirty-eight union constitutions examined show that delegates are usually apportioned so as to give smaller locals proportionately greater representation than larger locals. The typical provision guarantees at least one vote to each local; where membership is over 100 another vote is granted for each additional 100 members. This is the basis for apportioning delegates to the national conventions of the Mine Workers, Automobile Workers, Transport Workers, Electrical and Radio Workers, Musicians, Longshoremen's Association, Longshoremen's and Warehousemen's Union and a large number of other organizations.

Often the scale is more steeply graduated. The ILGWU constitution grants one vote for the first 99 members; two votes where there are 100 to 300; three for 300 to 1000; and one for each 1000 thereafter.

Some unions, like the Locomotive Engineers and the Railroad Trainmen go so far in protecting the small locals that they give one vote to each local regardless of size. The only union which seems to discriminate in favor of large locals is the Tobacco Workers. Until recently, at least, it granted one vote to locals with 25 to 300 members and one additional vote for each 100 members thereafter.

Small locals often find it hard to pay delegates' expenses; but most union constitutions provide that the international office should pay at least part of the cost.

Who May Be a Delegate?

THERE IS little evidence in union constitutions of arbitrary or discriminatory requirements regarding the qualifications of delegates to national conventions.

Out of 38 constitutions examined, only one, the Railway Clerks, requires delegates to be members of the union for at least four

years. Generally, any member may run for delegate if he is "an active worker" in the trade or "a member in good standing" for six months or a year. Some unions, like the Amalgamated Clothing Workers, Machinists, ILGWU and the Bakery Workers, have both requirements.

Union officials are exempt from the "active work" requirement. Where locals have been organized for less than a specified period, the membership requirement is proportionately relaxed. Workers who have a special temporary membership status are not eligible for selection as delegates.

How Often Conventions Meet

THE CIVIL rights of union members are violated when conventions are not called for long periods of time. But only a handful of unions have been guilty on this score. Most unions, in fact, have taken positive action to make sure conventions will be called at regular intervals.

Out of 38 union constitutions examined, 10 require conventions every year; 13 every two years; five every three years; six every four years; and two every five years.

Among unions requiring conventions every year are the Hosiery Workers, Auto Workers, Smelter Workers, Shipbuilding Workers, Musicians and Teachers. The Teamsters and the Bakery Workers require a convention every five years.

At the other extreme, the Tobacco Workers, until its recent reorganization, could not hold a convention at all unless it was requested by a 2/3 referendum vote of the members.

In the Letter Carriers and the Sleeping Car Porters conventions are scheduled biennially, but the international officers have the power to postpone them. In the Mine Workers, the State, County and Municipal Workers, the Molders, and the Pattern Makers the members can delay conventions by referendum vote, but this power is rarely exercised.

If some urgent question arises between conventions, special meetings can be called in most unions. This is done either by the executive board, by referendum vote initiated by local unions, and in a few cases solely by vote of the membership.

V. HOW UNION POLICIES ARE MADE

BASIC TO the problem of trade union democracy is how decisions on policy are reached. Here the following tests are valid: (1) whether members have a genuine opportunity to take part in the formulation of major decisions; (2) whether opposition groups have a real chance to present their case; (3) whether officers are strictly accountable for their work in carrying out policy decisions and are required to submit full reports to the membership; (4) whether the chief executive officers are tested by open and honest elections at regular intervals.

There is not enough material to apply these criteria to American trade unionism as a whole. What follows here applies chiefly to national labor organizations, and merely contains some clues as to what the overall picture may be.

National Union Elections

CURRENT practice in 38 national labor organizations was examined. It was found that in the great majority of cases officers are elected by convention delegates. Only eight unions elect officers by membership referndum vote: the Musicians, the Mine Workers, the Shoe Workers, the Bakery Workers, the Tobacco Workers, the Maritime Workers, the Newspaper Guild and the Machinists. In four unions the membership votes for candidates nominated by convention delegates: the Amalgamated Clothing Workers, the Longshoremen's and Warehousemen's, the Smelter Workers and the Brewery Workers.

Terms of office range from one to five years, but in most cases terms are for two years or less,

Generally qualifications for holding union office are union membership from six months to five years, an employment record in the trade, and American citizenship or declaration of intention.

Few unions have qualifications for office which are definitely discriminatory. Out of 38 constitutions examined, only one contained a discriminatory clause. In the Auto Workers union no candidate for office may belong to any organization declared illegal in the United States through constitutional procedure.

Where elections are held at conventions, delegates are usually free to nominate from the floor. Where elections are held by referendum vote, nominations are usually mailed into the national office; a certain number of supporting members are required for each nominee.

The Advantage of the Ins

THE RIGHT to nominate rival candidates thus exists in unions, but delegates and members do not always avail themselves of this right. In most national unions administration candidates are usually unopposed.

An examination of 18 unions showed that in most elections the incumbent candidates for president and secretary-treasurer are unopposed. In one union—the Amalgamated Clothing Workers—there have been no rival candidates since the formation of the union in 1914. In the Teamsters union, Daniel Tobin has been chosen president unanimously at every election since 1907.

In the Letter Carriers the presidency was frequently contested during the first fifteen years of the union's existence. Since then rival candidates have been named only during four elections. For the office of secretary, rival candidates were nominated on only two occasions since the union was founded in 1890.

In the United Mine Workers, the offices of president and secretary-treasurer were hotly contested between 1908 and 1926 and the vote was sometimes close. Since 1928, John L. Lewis has been president and Thomas J. Kennedy, secretary-treasurer, unopposed. Contests for office have also been rare in the Electrical Workers and the Brewery Workers.

In the ILGWU, election contests have been frequent during the past forty years; but since he became president in 1932 David Dubinsky has been unopposed.

In the Typographical Union, the Smelter Workers and the Electrical and Radio Workers national offices have been hotly contested.

How Unions Vote

GENERALLY in national union elections the convention delegates vote by secret ballot for the candidate of their choice. In uncontested elections, however, a unanimous voice vote is necessary.

The method of selecting tellers varies. In certain unions the president appoints the tellers. This is so in the ILGWU, the Teamsters, the Fur Workers, the Hod Carriers, the Operating Engineers, the Railways Clerks, the Bricklayers.

In the Printing Pressmen's union the president, secretary-treasurer and one member appointed by the president are delegated to count the votes, presumably even when the two officers are running for re-election. Many unions, however, have provisions for avoiding irregularities or fraud in the selection of tellers. Tellers are elected in the Amalgamated Clothing Workers, the Mine Workers, the Carpenters and the Actors union. In the National Maritime Union votes are counted by the Honest Ballot Association of New York City. In the Smelter Workers Union, the secretary-treasurer counts votes in the presence of a notary public. In the Machinists, opposing candidates select two tellers who choose a third. In the Musicians union, the ILGWU, and the Electrical Workers candidates may be present when the votes are counted.

Tenure of Office

UNION DEMOCRACY may be gauged by the turnover among union officials, though long tenure may simply reflect approval by the membership.

A study of 22 national unions covering the period from 1920 to 1941 reveals that in four the same president was in office; in five, two presidents held office; in eleven, there were three or four presidents; in one (the Electrical Workers) there were five presidents; and in one (The Teachers Union) there were six.

In some of the 22 unions, tenure of office extended well beyond the 21 year period studies. The president of the Carpenters has held office for 26 years; the presidents of the Teamsters and Printing Pressmen for 34 years each; the president of the Musicians in office before the present incumbent was chief executive for 41 years.

Tenure among national secretaries shows the same pattern. In the Smelter union there have been six secretaries since 1928. But the same man held this office for 38 years in the Carpenters and 30 years in the Printing Pressmen.

Freedom of Speech

A PREVIOUS SECTION of this report considered problems connected with the right of members to oppose official policy, to criticise national officers and to appeal to the members or their delegates for support. But the right of free speech in unions requires further consideration.

Union constitutions rarely contain affirmative provisions safeguarding the right of free speech. There is no union Bill of Rights. Usually the constitutions specify the conditions under which criticism and opposition will *not* be tolerated. Often they also contain a vaguely worded clause which officials can apply to a wide variety of opposition activities. Frequently members are not sure just how far they can go in criticising their leaders.

On the other hand, union constitutions sometimes provide ways for suspending or recalling officers. Where such action is possible, the initiating petition must contain the names of a certain number of members and generally the issue must be put to a referendum vote. Out of 38 constitutions examined, 14 have provisions of this sort, but available information fails to show that any national officers have been ousted by this means.

Union Publications

SERIOUS DIFFICULTIES can be made for opposition groups seeking to present their views to the members or their delegates. Aside from the use of disciplinary and expulsion powers, the administration can sometimes close all effective means of communication to critics.

In some unions the main channel of communication is the official journal. If its columns are closed to opposition views, critics have little chance of presenting their case effectively to the membership.

Control of the policy of union publications is generally delegated to the national executive board which usually appoints the editor. This is so in the ILGWU, the Electrical and Radio Workers, and the Office and Professional Workers. Sometimes the editor is elected at conventions as in the National Maritime Union, Transport Workers and Machinists. But even under these circumstances, the editor is subject to control by the international officers.

In some unions editing the union journal is attached to the office of the president or the secretary-treasurer. This is so in the Pattern Makers, the Conductors, the Tobacco Workers, the Meat Cutters, the Bakery Workers, the Railway Clerks and the Letter Carriers.

Some union constitutions protect the right of members to express opposition views in the official paper. If the editor of the Machinists' journal rejects any matter submitted by a local union, he must explain his reasons by letter. If the editor of the Tobacco Workers journal, who is also the union president, rejects a communication from members, the member may appeal to the executive board.

The constitution of the Mine, Mill and Smelter Workers explicitly provides that the union journal shall be open to all officers and members "for the discussion of social affairs, industrial, economic and political questions or any other questions pertaining to the interest of the working class." The Molders constitution, on the other hand, is ambiguous; it provides that the union paper shall be open to all shades of thought on political, social and economic questions, "provided that these are not of a personal or a partisan political character."

In practice union papers rarely contain serious criticism of the official family or its policies. The Typographical and a few other unions publish opposition views on important issues; but in most cases criticism is limited to minor matters. On important issues of

policy the material in union papers is hardly ever critical. Generally the union paper is regarded as the mouthpiece of the national office; its main purpose is to promote the policies of the national administration.

As a result of this situation, opposition groups are often compelled to issue printed matter of their own. This involves a great deal of organizational work and expense. It also risks violating union rules and regulations.

Convention Debates

TO WHAT extent can opposition groups present their views to the entire membership at conventions?

On this point the proceedings of fifteen unions were examined covering a period of twenty years. In nearly all unions the presiding officer of the convention calls for discussion of committee reports and the policies they propose. But convention committees are generally appointed by the group already in power.

If a committee concludes that a proposal should not be brought up on the convention floor, delegates may bring it to the attention of the convention directly. But this procedure is rarely followed. In a union like the Typographical every proposal submitted to a committee is presented to the national convention; in a union like the Carpenters, convention committees have considerable discretion on this score. In most unions, committees would probably hesitate to pigeonhole proposals in which convention delegates are genuinely interested.

At some conventions, debate is vigorous and opposition views are expressed freely. This is notably so when the delegates are considering new contracts. Considerable discussion also accompanies proposed changes in policy involving dues, a new organizing campaign, a decrease in the autonomy of local or district groups.

This is especially true of the newer unions. The annual conventions of the C.I.O. Auto Workers Union, for example, have

been marked by outspoken criticism, sharply divided opinion and serious threats to the existing leadership. Shortly after this union was founded in 1935, there was a sharp struggle between President Homer Martin's group and the group supporting certain executive board members. Martin and his followers left the union in 1939 to start a rival organization and R. J. Thomas became president of the Auto Workers. But convention discussions continued to be full, free and often bitter. At the 1942 Chicago convention the delegates voted down an administration proposal to raise dues from a dollar to $1.50 a month. There was prolonged debate over a motion to raise the president's salary from $5,500 to $10,000 a year with comparable increases for other officers. A compromise was worked out reducing each proposed new salary by $1,000. The 1,700 delegates approved the increases by a margin of about 500 votes. Another time, the delegates voted down a mild resolution by the administration calling on the entire industry to join the union in giving up double pay for Sunday work; they kept up their insistence until a stronger resolution was presented.

Delegates to Smelter Workers' conventions have been equally free in opposing official policies. At the 1941 convention they refused to reinstate the editor of the union paper appointed by the president and fired by the executive board. They also voted down 270 to 83 the president's request to appoint organizers outside the union's ranks.

In long established unions delegates seem less ready to oppose official policies. Even in the Typographical Union, where debate is full and criticism pointed, committee reports are rarely reversed. The same situation prevails in other old unions like the Hosiery Workers and the Machinists.

In older unions important differences of opinion are not generally expressed on the convention floor unless serious controversies have arisen between administrative officers and the executive board or between members of the board itself. When there is this kind of split in the official family, both sides may have sufficient power to risk open debate on the convention floor.

This was so at the ILGWU conventions between 1924 and 1932

when the Left and Right wings both had considerable support among the members. So too, following the death of the president of the Operating Engineers some twenty years ago, there was a sharp struggle at the 1920 convention for every office. Within the Flint Glass Workers Union opposition has recently been active because the union officials have been unable to cope with changing conditions within the industry and to curb the rise of non-union production.

By and large, however, serious criticism of the administration is rare at the conventions of most long established unions. Little or no expression of opposition views marked recent conventions of the Carpenters, Musicians, Amalgamated Clothing Workers, Operative Plasterers, Operating Engineers and other unions.

Debate at these conventions is usually on minor issues. Important problems are sometimes discussed, but major proposals presented by the officials are rarely voted down. At the 1941 convention of the Operative Plasterers, for instance, a resolution was presented giving the president sweeping powers to suspend or expel any officer or member for proper cause subject to approval by the executive board and appeal to the next regular convention. Proper cause was defined to include, among other things, undermining the working rules, wages and conditions of the members of any local; printing or distributing literature dealing with union matters without first obtaining permission from the national president; and all other activities violating sound union principles. The delegates voiced considerable opposition to this resolution but when the vote was taken they approved it.

Lack of vigorous opposition at most conventions of the older unions may reflect two things: general apathy among the members or general approval of the way officials are running the union. But it also raises two questions basic to trade union democracy. Are opposition groups afraid to voice criticism? Is the expression of opinion controlled by a small group in power?

Top union officials are in a position to impose serious penalties upon any group openly opposing them. These range from discriminatory treatment of grievances to suspension or expulsion.

Whether or not such tactics are used, it is advisable from a civil liberties standpoint to establish appropriate safeguards.

Reports to Members

ANOTHER TEST of trade union democracy is the report of officers to the membership. Unions fulfill one of their most important obligations to their members when they require full and complete accounting of funds, detailed reports of the activities of organizers, business agents, regional, district and national officers. This basic obligation is violated where reporting is incomplete, misleading or sporadic.

In most unions the president, secretary-treasurer and other principal officers submit regular reports to the national convention and between conventions to the executive board. Some unions require that between conventions financial reports be made available to the membership immediately, but the usual practice is to require publication of convention reports only.

The national president's report to the membership usually consists of a general review of the administration's work and achievements since the preceding convention. This report is then referred to the appropriate convention committee. After the committee approves it, the convention votes to accept or reject it. So far as the authors know no convention has ever rejected a presidential report.

Action on reports by national officers is usually perfunctory. It would probably improve the situation if reports were circulated among local unions well before national conventions, so that delegates would have a chance to digest them.

Furthermore, many unions take no steps to insure that officers' reports shall be accurate, detailed and comprehensible. The national president rarely reviews, point by point, the steps which the previous convention had ordered him to take. Local groups or delegates are rarely shown in detail how national representatives in their region have carried out particular responsibilities.

Often the reports of national officers are no more than a review

of past achievements. Convention committees in charge of various reports add little more. In unions like the Brewery Workers, Meat Cutters, Bricklayers, Maritime Workers, Longshoremen's Association, Transport Workers and many others, little can be gleaned from the president's report as to how he actually discharges the responsibilities of his office. More detailed and illuminating are presidential reports at recent conventions of the Mine Workers, Amalgamated Clothing Workers, ILGWU, Railway Clerks and most of the printing trades unions. The most careful and complete reports are in the Typographical Union.

Financial Reports

CURRENT UNION practice regarding financial reports and auditing varies widely. In most unions the executive board is responsible for all union property including funds. Sometimes the board must authorize every expenditure. This is so, for example, in the Federation of Government Employees and the Amalgamated Clothing Workers. More frequently, the board is merely required to audit the secretary-treasurer's books periodically. This is so in the Brewery Workers, the State, County and Municipal Employees, the Smelter Workers, the Transport Workers, the ILGWU and the Auto Workers.

In several unions a board of trustees, elected like other national officers, acts as custodian of funds. This is the case in unions like the Textile Workers, Electrical and Radio Workers, Railroad Trainmen, Conductors, Railway Clerks and Molders. Some unions require trustees to report at regular intervals to the executive board or the convention. In addition, a few unions, such as the Electrical and Radio Workers and the Textile Workers, require periodic audits by a certified public accountant.

Certain unions require that quarterly or semi-annual reports be distributed to the locals. Such unions include the Automobile Workers, Marine Workers, Transport Workers, Mine Workers and Longshoremen's Association.

In the Transport Workers, the executive board may purchase

property with union funds only with the approval of a majority of the members voting in a referendum.

Examination of financial statements in fifteen unions shows startling contrasts. Organizations like the ILGWU, Hosiery Workers, Steel Workers and Typographical Union issues detailed statements. These show the receipts and disbursements of all local bodies and all benefit funds. A member in any ILGWU local can easily discover just how much money his local received during the year, how much it turned over to the national office, joint boards and departments, and how much it spent for administrative, organizational and relief purposes. On this score, standards among most unions in the printing trades are also very high.

Other national unions, however, are extremely lax. The last financial statement of the Hod Carriers Union covered the 30-year period from 1911 to 1941. It simply gave overall totals of monthly receipts and expenditures for each year. The 1400 delegates at the 1941 convention tried to get a more complete accounting but failed. Unions like the Engineers and Plasterers have more detailed reports but these are hardly more illuminating.

Dues and Initiation Fees

Out of 38 union constitutions examined, eleven specify the amount of dues locals may charge. Thirteen specify only the minimum amount with no hint of a maximum limit. In fourteen there is no constitutional requirement of any kind. Most unions in the first group charge monthly dues of $1.00. Two go as high as two dollars and the Pattern Makers $2.35. For special groups of workers in highly paid trades the dues are even higher, but these are exceptions. In the second group of unions, the minimum called for by the constitution is $1.00 a month.

Initiation fees follow a similar pattern. Of the 38 union constitutions examined, 17 specify the initiation fee which locals may charge; ten set a minimum amount and eleven ignore the question. In the first groups, fees range from $1.00 to $10.00 in the Tobacco, Textile, Hosiery, Newspaper, Mine Workers and the Amalgamated Clothing Workers. In the second group, the minimum initiation

fee ranges from $1.00 in the Government Employees to $10.00 in the Longshoremen's Association.

Where dues and initiation fees are set by the constitution, changes usually require approval by the membership or action by the national convention.

As a rule, there are also checks on levying special assessments. Out of 54 constitutions examined, only eight allow the executive board to levy any assessments it sees fit and for any purpose. These include the Boot and Shoe Workers, Marine Workers, Hatters, Maintenance of Way Employees and Mine Workers. The president of the Trainmen's union, acting with the secretary-treasurer and trustees, has similar sweeping powers. At the other extreme, the Maritime union's constitution provides that "there shall be no assessments of any description." Eight other unions—including the Hosiery Workers, Machinists, Transport Workers, Pattern Makers and Electrical and Radio Workers—require approval of the convention or a referendum vote.

Where dues, initiation fees and special assessments are determined by the national organization, two safeguards are necessary against violations of individual liberties and the rights of local groups: the national convention must approve such financial actions and it must be truly representative of the membership.

Where these conditions prevail, national control of finances gives better protection to the individual members than local control. A curb is placed on dictatorial tendencies among local union business agents, managers and executive officers. Some of the most notorious cases of financial exploitation have occurred in local unions with considerable autonomy. Proper national standards tend to check local bossism. Where national leadership itself is corrupt, other remedies are necessary.

Negotiation of Contracts

IN CONSIDERING control over contract negotiations, the main problem is how much authority should be vested in the national officers, the national convention and the local or district organizations.

Many aspects of collective bargaining involve technical, complicated economic problems requiring quick action based on a broad understanding of industrial problems. Delegates to national conventions or the membership at large are hardly in a position to determine matters of this kind. As a rule, unions are more successful in meeting technological and market changes when the officers are allowed to negotiate agreements without rank and file ratification, subject to general directive by the membership, as indicated in the following section on "Minimum Standards."

The Cigarmakers are a good example of what happens when this rule is disregarded. Despite appeals from the national officers, a referendum of Cigarmakers voted against new methods of machine production. As a result, membership fell from 44,432 in 1912 to 7,000 in 1924. The glass bottle blowers, flint glass workers and hosiery workers have done much better by granting national officers broad authority to make final settlements.

Similar considerations apply to demands for greater local or district autonomy. Local issues often have national significance. If locals or districts were free to organize and call strikes or sign contracts on their own authority, the interests of the workers and of the union would be greatly jeopardized. Consequences are likely to be most serious in industries like coal mining where competitive labor costs are extremely important. Hence the national officers of the Mine Workers have gone to great lengths to maintain uniform wage standards. When necessary they even appoint district officers. Such practices are admittedly undemocratic, but a safeguard exists if the national convention exercises effective control over the national offiers.

In a few unions authority to negotiate and sign contracts on behalf of locals is vested solely in the national officers. The president of the Electrical Workers, for example, has this power; so has the president of the Hod Carriers, but his actions are subject to review by the executive board.

In the Hosiery Workers, authority is vested in the national executive board, subject to a referendum vote of the general membership. In several other unions, the executive board cooperates with

local representatives during contract negotiations; one or more of its agents sits in on the negotiating committee. The constitution of the Auto Workers empowers the board to supervise or guide and advise the local during negotiations.

In most unions contract negotiations are carried on by local organizations but approval by the national president or executive board is necessary before contracts are signed. This is so in the Maintenance of Way Employees, Textile Workers, Fur Workers, Painters, Auto Workers, Longshoremen's Association, Transport Workers and many other unions.

Some unions require the locals to submit contract proposals for approval by the national executive board before submitting them to the employers. This is so in the Teamsters, Typographical, Printing Pressmen and Brewery Workers.

Contrary to general practice elsewhere, the joint boards or district organizations in the ILGWU and the State, County and Municipal Workers exercise full authority in contract negotiations.

Minimum Standards

ANOTHER TYPE of national control over local contracts is found in unions which prescribe minimum standards in their laws.

In the Brewery Workers every contract must contain at least minimum wages and maximum hours decided by the national convention. In addition, there are constitutional clauses affecting overtime, layoffs, Sunday work and arbitration. The printing trade unions also prescribe standards in their constitutions. The Newspaper Guild may suspend without executive board permission the charter of any local which deviates from the collective bargaining program adopted by the convention. The Shoe Workers executive board drafts a standard agreement; after adoption by referendum vote of the members, this is binding on all locals; departures are valid only on executive board approval.

Generally, demands are drawn up by a contract committee. They are submitted for discussion to whatever body has the au-

thority: to a local membership meeting, or to a district or national convention. Once approved, demands are negotiated with employer spokesmen by the principal union officers involved. The final terms agreed upon are usually referred to the members or delegates for ratification.

In unions like the Hosiery Workers, demands are discussed at national conventions, negotiated by the national executive board and approved by referendum vote of the general membership. A referendum among members affected is also required by the Newspaper Guild, Shoe Workers, Marine Workers, Longshoremen's Association and Transport Workers. Often working members of the union are included on the negotiating committee. This makes it possible for the membership to have more complete reporting on the negotiations and gives the rank and file greater participation in dealing with employers.

In the northwestern paper industry, negotiations are conducted before a large audience of rank and file representatives.

Strikes

NATIONAL ORGANIZATIONS exercise complete or partial control of strike actions in various ways.

At one extreme is the Musicians Union where the national president is empowered to call strikes on his own initiative. In the Printing Pressmen's and the Shoe Workers the executive board Printing Pressmen's and the Boot and Shoe Workers the executive board has similar powers. At the other extreme are unions like the Longshoremen, Warehousemen and the Hod Carriers which require only that national officers be notified of a work stoppage.

In 21 out of 54 unions investigated it was found that financial aid in case of a strike can be granted only on approval of the executive board. Six unions specifically provide that a local's charter shall be revoked in a strike not authorized by the executive board or the president. Seventeen unions provide that authorization by international officers is "necessary" before a strike can be called. Charter revocation is not mentioned in the union constitution, but can probably be applied.

In many unions a strike may be called only after a referendum by the membership of the locals involved; in most cases a two-thirds majority is required. General strikes, involving most or all of the membership, can rarely be called without approval of the national organization. Such strikes may be recommended by the executive board of the Maritime Union and the Auto Workers, but can be called only after a referendum vote of the members.

Most important strikes, involving new contracts, national organizing campaigns and the like, are voted on by delegates with the understanding that the president and executive board will be free to call the strike when and if occasion requires. It is customary for national officials to use mandates of this kind as part of their bargaining strategy, but it also gives them broad powers over their unions. Sometimes an authorization to strike is not acted upon until months later. By that time conditions may change substantially from the time the vote was taken.

At no point in union policy is the conflict between democratic procedures and administrative effectiveness more acute than in formulating strike programs. All union constitutions should provide that strikes cannot be called without prior authorization of the majority of the members or their delegates. The actual execution of a strike program must of course be entrusted to the union's officers. The only way abuses can be avoided is to outline in detail the various steps which officers may take after a strike mandate has been granted and to require a strict accounting after the strike is ended.

RECOMMENDATIONS

THE GENERAL principles affecting the civil rights of the parties to industrial conflict form the background on which the rights of trade union members are cast. The democratic principles which apply to these rights are part of the entire structure of relationships between employers and workers, and between both and the public. Those principles are now fairly clearly established by law and court decisions.

In relation to issues of civil liberty, the American Civil Liberties Union has long formulated these democratic principles in industrial conflict in the following declaration.

Rights of Organized Workers

1. The right of workers to strike should not be qualified or restricted in any way; to compel men against their will to continue working for another is a clear violation of civil liberty. In time of war, trade unions may agree to forego this right to strike; but this voluntary agreement in no way abrogates the basic right to strike. No general limitation should be put on the right to strike by such "cooling-off" periods as tend to defer to the last possible moment all attempts at agreement and thus often to defeat the object of promoting early mediation.

2. The right of workers to organize and select representatives for collective bargaining free from coercion by employers should be maintained under the protection of federal and state law.

3. Injunctions in labor disputes should not be issued to restrain peaceful activties.

4. The right to picket peacefully at any time and at any place for any purpose should be maintained, subject only to control of traffic, order and fraudulent signs.

5. Closed shop contracts between employers and unions involve no issue of civil liberties if membership in unions is open to all qualified workers without discrimination. There is a fundamental incompatibility in the existence of a closed shop involving a closed union. No union which enjoys a closed shop privilege

should also have the right to limit its membership by closing its membership rolls, by prohibitive or excessive fees and dues, or by issuing other than temporary work-permits to non-members.

6. The use of anti-trust laws to prosecute ordinary trade union activities as restraints of trade should be opposed.

7. Laws penalizing trade unions which bar membership on the ground of race, sex, national origin, religion or political affiliation should be supported.

8. Proposals for compulsory arbitration of labor disputes should be opposed, as well as proposals for compulsory incorporation of unions.

9. No restrictions should be placed by law on the freedom of unions to contribute funds to political campaigns but provision should be made for authorization only by membership vote, with the right of the minority not to be assessed.

10. No legal restraints should be imposed on the right of union members who are not American citizens to participate in union affairs equally with other members.

Rights of Non-Union Workers

11. The right of access to plants on strike by non-union workers as distinguished from strike-breakers is primarily a matter of policing, and should be protected by public agencies.

Rights of Employers

12. The right of employers to freedom of speech concerning unions should be sustained, except where their utterances in the light of the circumstances under which they are made constitute coercion against their employees.

The democratic principles expressed in the above declaration represent on the whole the dominant tendencies in public policy laid down by the courts, the federal government, and the principal industrial states. They are continually under attack in one respect or another; and legislation to qualify them is constantly before Congress or the states.

But the protections which on the whole have been accorded to labor organizations are sufficiently established to justify a demand on trade unions that they should in their internal affairs conform to the democratic principles of which they are in other relationships the beneficiaries. Furthermore, they are spokesmen for workers, and as such they are in an indefensible position in demanding democratic rights unless they unreservedly practice these principles in their own affairs.

As this survey indicates, the majority of unions satisfy reasonable requirements of democratic practice, though few are entirely free from criticism for lack of it in one respect or another. The chief complaints by rank and file members concern lack of opportunity for full participation in the conduct of a union's affairs; tending to the perpetuation in office of entrenched officials; the difficulty of organizing an opposition to the leadership; the lack of adequate machinery for review of expulsions and suspensions; the penalties imposed by varied means on critics of the leadership; the lack of control over expenditures and assessments in many unions; discrimination in assignment to jobs; and exclusions from membership based on race, sex or political connections.

Similar complaints are doubtless made by rank and file members of other associations; they are inherent in the nature of democratic processes at the difficult point of balance between leadership and membership. The ideal, of course, is that leadership should represent the majority of members, expressing themselves in regular free elections on men and measures based on access to full information on union affairs, and that minorities should have the right of free criticism and of opposition within the union, without penalties or interference. No legislation nor intervention by the courts can guarantee such results; though it can encourage them by affording review by public authority of violations of members' rights under union constitutions.

A "Bill of Rights" for Union Members

The encouragement of democratic standards in unions should be the obligation of the labor movement itself; and every possible pressure should be exerted from within and without the labor

movement to induce unions to measure up to such standards. As a guide to that process, we present the following as a basic *Bill of Rights* for trade union members, couched in terms of the rights of an industrial worker.

1. Membership in a trade union appropriate to his trade or calling and to his place of residence. This right is not to be denied (1) by discriminations based upon race, creed, color, sex, national origin or political affiliation, nor (2) by the imposition of restrictive or excessive initiation fees, nor (3) by any other limitations on membership than incompetence in his trade or calling, bad moral character or a record of anti-union activity.

2. Democratic participation in the conduct of the union to which he belongs. This right obviously requires democratic organization of the union, inclusive of local, district, state, national and international units. Among the principles to be safeguarded in democratic organization of trade unions are (a) provisions for regular meetings or conventions held at reasonable intervals, (b) fair elections, (c) free discussion within the union of all union problems, and (d) control of dues, assessments, and financial matters by the membership, together with clear and authentic periodic reports to members on union finances.

3. Protection within his union against arbitrary proceedings of a disciplinary character, to be guaranteed by constitutional provisions for fair hearings before persons other than those bringing charges, and with appeal to a separate and independent body.

4. Fair and equal treatment with respect to job placement in all cases where the union exercises control over employment.

Like any Bills of Rights, these four points merely sketch the basis of democratic participation. And like other Bills of Rights, their guarantees need to be implemented. The best implementation is of course to be found in union constitutions, references to which appear on page 86.

In elaboration of the rights set forth above, democratic standards require the following provisions in local unions:

1. Membership Control

1. Provision for the removal of elective officers by recall of the membership on petition; and upon charges and trial before a union committee.

2. A provision for initiating action by union members on proposals which when backed by sufficient signatures must come before a meeting for vote; and with provisions for a referendum vote of the membership by ballot on proposals either referred by the officers and executive board or by a petition sufficiently supported.

3. Delegates to national conventions of the union should be elected by the members by secret ballot, either together with the election of other union officials, or in open meeting of the union after nominations have been duly made, open to all union members.

4. In connection with elections of union officials, provision should be made for nominations by petition as well as by a nominating committee. The election should be held by a secret ballot and representatives of the candidates or of competing tickets should be permitted at the count. In order to avoid resort to the courts, election controversies involving recounts or charges of irregularity should be settled either by calling on the officials of the national union, by a convention vote, or an outside impartial agency.

5. All changes in the constitution of the union should be made only by a vote of the members either at a meeting at which the proposed changes have been distributed in advance and with full opportunity for discussion; or by ballot at an election or by referendum vote.

2. Control of Finances

1. Special assessments should be levied only after a majority vote of approval by members and if for political purposes the assessments should be wholly voluntary, and no member should be assessed for a political purpose which he does not support.

2. Appropriations from union funds should not be made without approval by the union membership in open meeting, especially for purposes outside the established field of the union's business—such as contributions to public causes, political campaigns, agencies outside the union field, war relief, etc.

3. Publicity to Members

1. Provision for the right of members to print and distribute within the union membership, and without penalty, their views on any issue affecting the union.

2. Arrangements by which the records of the union are available for inspection by any member as a matter of routine, including the constitution, by-laws, minutes and financial records.

3. Provision for the distribution to all members of copies of the working agreements and contracts entered into by the union.

4. Provision for publication in the official organ of the union, (or if no official organ exists, by distribution in leaflet or pamphlet form) of the decisions of the executive board, of membership meetings, and financial reports. Where there is an official organ its columns should be open to the expression of views in opposition to those of the union administration.

5. All notices of membership meetings should contain a statement of any important or exceptional business to come before the membership.

4. Discipline

Members charged with offenses against the union which might result in suspension or expulsion should have the right to a hearing before a committee composed of persons independent of those who bring the charges. The hearing should be open to union members. A stenographic record should be kept and those charged should have the right to counsel and to call witnesses. Any member suspended or expelled should have the right of appeal to another body within the union superior to and independent of the trial committee, or to a membership meeting; and further, the right of appeal to an outside body provided by law as recommended on page 83.

5. Job Assignment

In filling jobs the union should follow either the rule of seniority—which is length of membership in the union—or in times of unemployment, share-the-work arrangements or preference to those who have been the longest unemployd.

6. Business Agents

Business agents of the union should be chosen by and responsible to the executive board, not to the president, in order to avoid the creation of a political machine of paid office-holders.

We have not included any reference to membership participation in negotiating contracts or in calling strikes, since those practices are discussed in the text of the survey with some indication of the most desirable arrangements. Nor do contract negotiations or calling strikes lend themselves as clearly to a formulation of democratic principles because considerable discretion and freedom of action must be lodged in executive hands. Membership approval of contracts entered into, or the formulation of general demands or minimum standards are obviously desirable practices, and if more widely established would avoid the sell-outs and corruption which have marked some union dealings. Membership control of strikes by taking a strike vote in advance is also a desirable practice, but it presents difficulties in many circumstances which prevent laying down a general rule.

In recommending that a "Bill of Rights" and these implementing provisions be adopted by labor unions, we are aware that some limits must be placed on the individual member's freedom or else the organization's effectiveness would soon be impaired for lack of internal discipline. Once general policies have been formulated, therefore, the executive should be left free to put the program into action and to demand general observance. A line should be drawn to prevent individual members or minority groups from thwarting the declared will of the majority.

But these proposals certainly could not have such results. Indeed, they would tend to eliminate rule by minority groups and foster representative government. Nor would unions be weakened if these proposals were adopted. The vitality of labor organizations in the last analysis depends on the support of their members. Measures calculated to increase member participation could hardly lessen their strength.

Other issues arise which do not lend themselves as readily to

specifications for inclusion in union constitutions and practice but which equally affect democracy and members' rights. These concern the limits upon members' criticisms made outside the union and related to action taken by the union. In this respect, a line needs to be drawn between criticism of action taken by unions on non-union matters, such as on public issues and political questions, on which a dissenting minority should be free to express itself without penalty. On the other hand, taking criticism of the conduct of the union or internal union affairs into the public press or before other organizations outside the union—save for legal aid in court contests or when all channels within the union are closed—is a breach of discipline properly subject to action.

No disciplinary action should be taken against members on account of political or religious beliefs or affiliation. These are rights which should be freely exercised by all citizens. If political or religious beliefs lead to practices within the union detrimental to the conduct of the union, those practices or acts, not beliefs or membership in any religious or political organization, should be the sole ground for discipline. Unions may properly exercise discretion in setting reasonable qualifications for office-holding, such as denying that privilege to non-citizens, or to advocates of totalitarian principles.

Control of Local Unions

The suspension of local unions by national or international unions raises difficult problems regarding the line to be drawn between legitimate and unwarranted exercise of power. It is obviously legitimate for a national or international union to suspend a local when it has clearly violated its own constitution or that of the international; or when it seems clear that a fraudulent election has taken place. In the case of persistent offenses it is entirely legitimate for the international union to revoke the charter of a local and to organiz a new body. From all such actions a dissatisfied local union should have of course the right of appeal to the courts, besides the appeal usual in union practice to the ultimate union authority, the national convention or a referendum of the national membership.

The power to suspend locals and revoke charters has been,

however, so often abused that union statutes should take particular care to specify the precise circumstances under which suspensions or revocations may take place. Generally speaking, the line should be drawn between legitimate action taken when a local union violates constitutional provisions or conducts a fraudulent election, and unwarranted cases in which the local opposes the union's national administration or exercises its autonomy on matters not in violation of any constitutional provision.

The National Convention

Action by local unions achieves democracy only in a limited, though basic, sphere. The national convention affords larger opportunities for progress in this direction, and ways of improving this phase of union government should be emphasized. If officers were under obligation to explain all major decisions at conventions and to secure the approval of delegates, opportunities for abuse would be reduced. To assist delegates in the task of appraising executive policies, chief reliance would still have to be placed on convention reports. To avoid "packing" the various committees with official supporters—particularly the committees on credentials, officer reports and laws—these committee members should not be appointed by the national president. They should be chosen by the executive board, or better still, by the membership of the local or district organizations.

Whatever the means of selection, the object should be to secure a detailed, thorough appraisal of executive policies by men who are not dependent on the national officers. The national convention is too cumbersome a body to exercise effective supervision over officer activities. Thus there is need for a continuous check on union executives and their appointees, the logical agency for this purpose being the national executive board. If that board could be made representative of different sections of the membership by a system of proportional representation, and at the same time independent of the other national officers, its usefulness as a supervisory agency would be greatly enhanced. Otherwise its veto power is likely to deteriorate into a mere "rubber stamp" for the officials.

Limits in Reforms by Rules

It is clear that no reforms in union constitutions, rules and regu-

lations will in themselves achieve trade union democracy and insure against undemocratic practices. Just as in political life, ambitious men will seek to gain power by riding rough-shod over constitutions and rules or by manipulating democratic machinery to their own purposes. No rules or regulations will stop packing meetings with the followers of a group determined to achieve power; they will not stop strong-arm methods of gangsterism; they will not prevent a minority from achieving control by outsitting the majority at interminable meetings, nor prevent a determined minority from getting together in a caucus and voting en bloc after dividing its opponents.

These methods, common to other associations and bound to mark trade union politics as well, can be avoided only by a membership determined not to tolerate fraud, chicanery, gangsterism, minority rule, and other undemocratic devices. In unions, as in other associations, constant vigilance by a sufficient number of members is required to insure democratic practice, with a constant fight against every encroachment upon it.

The Means of Achievement

It will be said that these recommendations for better democrtaic practices in trade unions are counsels of perfection that even if considered and acted upon it would take years for the thousands of local unions throughout the country to conform to the better practices suggested.

It is obvious that if such changes as are recommended are to be left to local unions alone they cannot be accomplished in time to offset the ominous drive against trade unions which is in so large part based upon charges of autocratic behavior. It is clear, therefore, that measures must be adopted primarily not by local unions but by the international unions of which they are a part; and also by some stimulus on the part of the federations representing the two great divisions of the American trade union movement, and by the Association of Railway Labor Executives.

Such a stimulus would represent something of a departure from established practice, for these federations do not exercise

disciplinary powers and rarely take the lead in recommending action to constituent unions.

Since the AFL's inception, final authority over any affiliated union has been lodged in the Federation's annual convention. This alone is empowered, under the AFL constitution and by-laws, to suspend, expel, or otherwise discipline any member organization. But in dealing with its constituent bodies, the AFL's entire emphasis has been and remains upon an autonomy often anarchic. In 1907, Samuel Gompers, AFL fouding father, declared that "inherently an international union is sufficient to itself." And four years later he amplified the implications of this remark by saying that "the affiliated organizations of the AFL are held together by moral obligations, by a spirit of comraderie, a spirit of group patriotism, a spirit of mutual assistance." The AFL's ruling groups have adhered tenaciously to this view.

To be sure, four times yearly, the AFL council (consisting of the president, secretary-treasurer, and fifteen vice-presidents, all annually elected) meets to carry on the ad interim affairs of the Federation. But fundamentally, the council can rarely do anything about the behavior of an AFL affiliate except to recommend, or invoke the always mercurial gods of moral suasion.

Certainly up until five years ago, the Council had no power to suspend an affiliate, or otherwise discipline it, except for (1) the non-payment of per capita dues (2) or failure to pay strike assessments. However, early in 1938, the Council—in a maneuver to disrupt the then Committee for Industrial Organization—voted itself some new, extra-special, powers enabling it to suspend or expel any affiliate found guilty of "dualism," i.e. helping to foster or otherwise aiding, any rival labor movement. The legality of this self-imposed authority remains debatable; the more particularly since it had to be ratified by an annual convention which alone had the right to confer this kind of authority upon the Council.

Today in practice, only a 2/3 majority vote at the annual convention of the AFL can change the charter or character of any affiliate. But this vote in itself can remain a mandate that is not

mandatory. If for example a 2/3 vote should be carried for the proposal that all AFL unions must admit Negroes, or revise their constitutions to admit members of minority groups, these could be only "for the record" gestures, for there is no agency within the AFL to enforce convention votes in a way that could override the inherent sovereignty of an international union.

It would be helpful, but only up to a point, to have the AFL create committees to advise its constituent unions on such matters as race discrimination. But the AFL historically does not lean toward the creation of committees for many purposes except immediate bread and butter advantage. As an illustration, its special committee to cut down on immigration to safeguard jobs for the native-born may be considered typical.

On the other hand, the CIO has officially and typically set up a committee on race discrimination to combat anti-minority group tendencies among its membership. This action reflects a somewhat more progressive philosophy, as put into effect by a leadership that, in making broad policy, is more cohesive than that of the AFL.

While the CIO's executive board of 44 is the counterpart of the AFL's executive council in theory, in practice the CIO's six vice-presidents together with its president and secretary-treasurer more nearly parallel the AFL council's powers and functions. The important difference in CIO structure is its greater "density of power" as shown by its constitution of November 1938 under which the President is given somewhat Draconian prerogatives, serving in the double capacity as chief administrator and chief magistrate, subject only to the check of review by the CIO executive board.

While no specific authority is granted to intervene in the conduct of an affiliated union, it would seem that the CIO in theory at least is able to do so. This authority has not yet been formally exercised.

The Association of Railroad Labor Executives, a loose federation of the heads of the railway unions has no powers of discipline and can only recommend action. It has never stepped out in front

on any issue of minority group protection or trade union democracy.

It is clearly within the traditional powers of international unions to adopt for themselves and their locals rules and regulations of a character to achieve democratic ends. Federations of labor organizations exercise no such power; but recommendations of federation conventions, of executive boards, and of committees always carry weight throughout the entire labor movement.

If anything approximating the changes recommended is to be achieved, it will be accomplished only by the interest and support of the "top" leadership of the American labor movement in all its branches, plus what we believe to be the already considerable pressure among the rank and file. It may seem paradoxical to rely for reforms upon a leadership whose power would appear to be circumscribed by adopting the changes recommended. But it seems apparent that enough of that leadership is sufficiently democratic in purpose to set in motion forces which will tend to achieve these results.

It is of some importance to note that abusive practices on the part of union officials are usually in violation of the spirit if not of the letter of the constitutions of their organizations, and that the basic laws governing a majority of unions protect the civil rights of members. It follows that the traditions of unions are essentially democratic, and that a movement to abolish dictatorial leadership can count on substantial support.

One great lack in democratic machinery is adequate means for the membership to exercise a close and continuous check on all the principal local, district and national officers. Membership meetings or conventions are inadequate for this purpose, since they occur too infrequently. They are too large, and those in attendance cannot hope to have sufficient information for the task at hand.

Unless some group, representative of all the sections of the union membership and independent of the principal officers, is given full powers to supervise the work of officials concentration of power may follow, with all the opportunities for abuse which such power affords.

In addition to incorporating certain basic standards of democratic procedure in union constitutions, therefore, it is desirable that some such instrument for supervision be devised. Otherwise controls vested in the membership or in conventions are likely to prove more formal than real.

As observers of unions well know, the typical member is often indifferent to the type of leadership in his union so long as wages are good, employment standards are satisfactory and jobs are available. Couple this fact with the unwieldy nature of conventions—and sometimes even of local meetings—and it becomes clear how officials are able to achieve concentration of control.

A small independent body responsible to the membership which elects it, and vested with authority to exert continuous and close supervision over the union's administration, is a highly desirable adjunct to democratic guarantees.

Legislation

Legislative control affecting the inner affairs of unions is objectionable because it weakens the autonomy and independence of unions, and if accomplished by state enactments, puts an intolerable burden on unions by requiring conformity to 48 separate and different standards. A particular measure of control can be justified only by a particular evil, so great in its effect on the public that legislative intervention becomes necessary. In our view, the only legal measures at present justified by the denial of democratic rights are:

(1) Punishing the exclusion from membership of any qualified persons on account of race, religion, sex, national origin, or political affiliation.

(2) Provision for hearing by an administrative agency on suspensions or expulsions, with review by an appellate court.

(3) Similar review of the application of democratic rights under union constitutions.

These proposals do not impose state regulation of any sort on a union's internal affairs. They afford relief from unfair discrimination for those desiring to gain admission; they protect the rights of union members under their own constitutions, affording a more orderly and expert review than is now provided by the uncertain resort to the courts. Quite different is the principle, for instance, of a legal requirement for filing with a state agency a union's financial accounts from a requirement insuring members' right of access to those accounts.

Laws already adopted by five states (New York, Pennsylvania, Nebraska, Wisconsin and Kansas) provide in principle that unions may not exclude applicants from membership on the ground of race or religion. In Pennsylvania the law was extended in 1943 to cover political affiliation. The New York law—a criminal statute, unlike the others—is an excellent statement of the principle. It reads:

> "SECTION 43—New York Civil Rights Law—DISCRIMINATION BY LABOR ORGANIZATIONS PROHIBITED.
>
> As used in this section 'labor organization' means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection. No labor organization shall hereafter, directly or indirectly, by ritualistic practice, constitution or by-law prescription, by tacit agreement among its members, or otherwise, deny a person or persons membership in its organization by reason of his race, color or creed, or by regulations, practice, or otherwise, deny to any of its members by reason of race, color or creed, equal treatment with other members in any designation of members to any employer for employment, promotion or dismissal by such employer." Effective February 14, 1940.
>
> "SECTION 41: Penalties
>
> ". . . any officer or member of a labor organization as defined by Section 43 of this chapter or any person representing any organization or acting in its behalf who shall violate any

of the provisions of Section 43 of this chapter or who shall aid or incite the violation of any of the provisions of such section shall for each and every violation thereof be liable to a penalty of not less than $100 nor more than $500 to be recovered by the person aggrieved thereby or by any resident of this state to whom such person shall assign his cause of action in any court of competent jurisdiction in the county in which the plaintiff or defendant shall reside; and . . . such officer or member of a labor organization or person acting in his behalf as the case may be shall also for every such offense be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than $100 nor more than $500 or shall be imprisoned not less than 30 days nor more than 90 days or both such fine and imprisonment."

While the New York law does not cover discrimination based on sex, national origin or political affiliation, those qualifications are quite as legitimate and should be added to any bill.

There are no substantial arguments against such legislation. Arguments justifying such public control of admissions to unions are:

1. In many industries a man's livelihood depends upon union membership and to deny him admission to a union on such a ground, particularly where the closed shop is prevalent in the industry, is to deny him his livelihood because of his race, religion or beliefs.

2. Whatever reasonable grounds may be formulated for union membership on the basis of skill or other qualifications for the trade cannot possibly apply to race, religion, sex or national origin.

Although only state legislation has thus far been enacted, the argument for establishing this principle in law is quite as valid when applied to the federal jurisdiction. A federal statue along similar lines would at once establish a nation-wide standard and would in effect cover all trade unions.

If a criminal statute is objectionable, results could be accomplished in part by providing that the federal government shall

require unions engaged in government work under contract not to discriminate, as has already been done in the case of war contracts in relation to race discrimination. But this would not cover all unions.

Federal power can be further extended:

1. By providing that no union shall be recognized as a collective bargaining agent by any federal labor relations agency if it discriminates in admission to membership on any of the grounds set forth above. Such a provision would cover practically all unions and would give the widest practicable scope to the principle.

2. By the passage of a statute to the effect that in the case of a union discriminating on account of race, creed, etc. no closed shop contract will be valid. The effect would be that if an employer is sued by such a union for violation of the contract he can successfully raise the defense of discrimination by the union in admitting members. A federal statute would cover, of course, only unions whose members are engaged in interstate commerce. A similar remedy is open under state law to cover others.

We suggest that leaders of the trade union movement, the heads of government agencies concerned, and those outside interested in trade union democracy support a bill in Congress to make discrimination on any such grounds unlawful, with penalty provisions similar to the New York statute and with a provision for recovery by aggrieved persons. Such a statute should be supplemented by another, as suggested above, to deny collective bargaining rights to unions which discriminate.

Court Action

Appeal to the courts is justified on the part of union members who complain that their rights under the union constitution have been violated. While courts are on the whole reluctant to intervene in the affairs of voluntary associations, they have been the chief governmental agency in correcting such glaring abuses as failure to hold elections, to conduct fair elections, to account for the use of union funds, to accord members fair trials on charges resulting in suspension or expulsion, and to overcome the arbitrary suspension of locals by international officials. Resort to the courts in such matters requires no further legislation.

Relief in the courts for members unfairly tried on charges is both difficult and uncertain. A more definite system is desirable so that union members will not have to risk the considerable expense, the uncertainty of the court's taking jurisdiction, the unfavorable criticism that often attaches to court action by union members, and the more doubtful recovery of wages for time lost, if reinstated. Recognition of the public interest in protecting union members against unfair expulsion should be achieved by providing an appeal to a special agency of the state (or of the federal government for members of unions engaged in interstate activity).

Appeals from the action of union bodies should not be entertained in cases of suspension or expulsion for non-payment of dues or violating clear union obligations; nor in cases where reasonable fines are properly levied. No question of the public interest is involved in such matters.

In addition to providing a method for review of unfair suspensions or expulsions, appeals should be heard from members who claim that their democratic rights under the union's constitution are violated by officials—such as the right to conduct a campaign in the union for the election of officials opposed to the administration, for adequate financial reports, or for the application of any one of the provisions of the union's constitution.

We recommend the enactment of legislation by the states (and in the federal jurisdiction, by Congress) to provide:

(1) that when members have exhausted the machinery set up within the union for contesting suspensions and expulsions, and for adjusting such complaints, they should have the right to a hearing by a commission set up as a permanent division of the state labor department, or selected for specific hearings from a panel, with adequate representation of labor on such a commission. Appeal from the decision of the commission should lie to an appellate court.

(2) that in case of continued serious violations of these rights of workers on the part of a trade union having a closed shop agreement or seeking to become an exclusive bargaining agent, the appropriate labor department on complaint of a trade union member

should have authority to investigate and adjust. Provision should be made for appeal from such an order to the commission, with authority to order cessation of improper practices referred to above. From the decision of such a commission further appeal should lie to an appellate court.

(3) But if a trade union found to persist in major and continuout violations of the rights guaranteed by their own constitutions refuses to desist, the commission may certify its findings to the appropriate labor relations board empowered, after proper hearings, to deprive the union of the benefits of a close shop agreement, or acting as exclusive bargaining agent.

The advantage of setting up a quasi-judicial commission to intervene between the union machinery and resort to the courts is supported by all experience in the adjustment of labor relations. Experience shows that such commissions soon become expert in the problems involved and make speedier and fairer dispositions of the controversy than the courts.

The creation of a state commission to handle these controversies will assist greatly in getting formal review by the courts, which will be obliged to take jurisdiction on appeal, in contrast with the frequent disinclination of courts at present to review such matters. The review in such cases will however be more limited in scope, since the courts will not hear the facts anew but will review the findings and procedure of the commission.

In the case of unions engaged in interstate commerce, a federal reviewing agency should be established for the same purpose, before resort to the federal courts or certification to a federal labor relations agency (in accordance with No. 3 above).

An arrangement such as proposed here in effect constitutes a "code of fair practice" under the existing provisions of union constitutions. We have not proposed to extend public power beyond that point, in the belief that as relief is secured through the aid of a public agency, the better practices of the more democratic unions will tend to prevail through action of the unions themselves.

If that does not develop, it may be desirable for the public reviewing agency to recognize certain essential rights of trade union members which may not now be recognized in many union constitutions, but for which protection should be guaranteed nevertheless. So to extend democratic practice would not be to impose upon trade unions arbitrary standards, but merely to accord within their own framework the opportunity to exercise those basic rights which are or should be common to all citizens in a political democracy.

Conclusion

It may seem that the counsels for action contained in these recommendations appear contradictory. We urge certain action by the rank and file for increased power over their leadership; we urge the leadership to encourage rank and file democracy. We urge review of the denial of democratic rights by court action and by legislation.

But we see no essential contradiction in encouraging all these democratic advances at every point. It requires a highly complicated structure to insure democratic practices. We are clear that public intervention to that end should be held to the minimum guarantees of no reasonable discrimination in admission and relief for trade union members denied rights under their own constitutions or accepted democratic practice.

It will be maintained by many trade unionists that their internal affairs are of no concern to "outsiders." That argument has been destroyed long since by the unions' acceptance of public protection in organizing and bargaining collectively and in the public regulation of industrial conflict.

We present these recommendations in the belief that though many of them may arouse criticism and opposition, on the whole they constitute a contribution to exploration and action at one of the most urgent points in developing industrial democracy in the United States.

A SUPPLEMENT to this pamphlet may be obtained containing desirable provisions from trade union constitutions and by-laws and the references to court cases indicated in the report. The supplement covers 24 pages and includes the following:

I. Sections from Trade Union Constitutions and By-Laws

(1) On charges and appeals
International Ladies' Garment Workers' Union, and American Newspaper Guild

(2) Rights and duties of members
Wholesale & Warehouse Workers Union, Local 65, New York City.

(3) Nomination, election and recall of officers
National Maritime Union of America, Oil Workers International Union, International Typographical Union.

(4) Trials of locals
American Newspaper Guild

(5) Rights of members
International Typographical Union

(6) Discrimination in admission to membership
International Typographical Union

II. References for lawyers.

The material for references to court cases, with indications of the pages in the report to which they refer, covers:

1. Restrictions on admission.
2. Members' rights in disciplinary action.
3. Court review of disciplinary proceedings.
4. Proper trial procedure.
5. Exhaustion of remedies.
6. The courts on union discipline.

DEMOCRACY IN TRADE UNIONS

Supplement,

with desirable provisions from trade union by-laws, and references to court cases indicated in the report.

AMERICAN CIVIL LIBERTIES UNION
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Nov., 1943

CONTENTS

Labor's Civil Rights

1. The right of workers to strike should not be qualified or restricted in any way. To compel a man against his will to continue working for another is a clear violation of civil liberty.
2. The right of workers to organize and select representatives for collective bargaining free from coercion by employers should be maintained under the protection of federal and state law.
3. Injunctions in labor disputes should not be issued to restrain peaceful activities.
4. The right to picket peacefully at any time and at any place for any purpose should be maintained, subject only to control of traffic, order and fraudulent signs.
5. The right of employers to freedom of speech concerning unions should be sustained, save where speech constitutes coercion of workers' rights, or where the speech itself is threatening.
6. Closed shop contracts involve no issue of civil liberties if membership in unions is open to all without discrimination.
7. The use of anti-trust laws to prosecute ordinary trade union activities as restraints of trade should be opposed.
8. Laws forbidding trade unions to bar the membership of Negroes or others on the ground of race should be supported. But laws requiring union incorporation or licenses for representatives should be opposed.
9. Proposals for compulsory arbitration of labor disputes should be opposed, as well as for compulsory incorporation of unions.
10. The right of non-union workers as distinguished from strike-breakers to access to plants on strike is primarily a matter of policing, and should be protected by public agencies.
11. Where a union is guilty of discriminatory racial practices, certification by the NLRB should be conditioned on their elimination.
12. Union members should be protected in the exercise of democratic rights against encroachment by union officials or undemocratic procedure.

YOU *cannot* BE PUNISHED . . .

YOU *cannot* BE FINED . . .

YOU *cannot* BE EXPELLED . . .

for exercising *your union* and *civil* rights!

YOU *HAVE* THE RIGHT TO:

- FREE SPEECH —
- CRITICIZE YOUR UNION OFFICIALS —
- A FREE AND HONEST UNION ELECTION —
- RUN FOR OFFICE —
- ATTEND ALL UNION MEETINGS —
- VOTE IN ALL UNION ELECTIONS.

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DESIRABLE PROVISIONS FROM TRADE UNION CONSTITUTIONS AND BY-LAWS

On Charges and Appeals

Constitution and By-Laws of the International Ladies' Garment Workers' Union.

Article 10. Offenses and Punishment. A member may be fined, suspended or expelled for the following reasons:

Section 1. For making false statements on his application for membership, or giving false answers at his medical examination.

Section 2. For misappropriating or attempting to misappropriate money or property of the I.L.G.W.U., J.B., D.C. or L.U.

Section 3. For failure to pay a fine imposed by the L.U., J.B., D.C., or G.E.B., or for disobeying or failure to comply with any order or decision of the G.E.B., J.B., D.C. or L.U. within the time provided in such order or decision.

Section 4. For working as a strike breaker or violating the standards as to wages, hours or working conditions established by the Union.

Section 5. For any action or conduct detrimental to the interests of the I.L.G.W.U. or its subordinate bodies, and for slandering the organization or any of its officers.

Section 6. For entering into individual contract of employment with an employer, giving security to an employer, or disclosing to an employer or any person other than a fellow-member any of the decisions or proceedings of the Union which have not been publicly disclosed by the Union.

Section 7. For resorting to the courts for redress of an alleged wrong done him by the organization or any officer of the same before exhausting all rights and remedies provided for by this Constitution.

ARTICLE II. TRIALS AND APPEALS

Section 1. Except as elsewhere provided in this Constitution for automatic suspension or expulsion or for fixed fines or penal-

ties, no member of the I.L.G.W.U. shall be fined, suspended or expelled; no L.U. shall be reorganized or suspended and no officer of the I.L.G.W.U. or of any J.B. or D.C. or L.U. shall be removed from office without proper notice of charges and a fair opportunity to be heard in defense; but an officer under charges, under Section 6 of this Article, may be suspended by the Executive Board of his organization, the J.B. or the G.E.B., pending trial.

Section 6. Any elective or appointive officer of a L.U., J.B., D.C. or G.E.B. may be removed from office for any violation of this Constitution or of the by-laws of the body of which he is an officer, or because of the commission of any act which may be calculated to impair the usefulness of the organization or which is unbecoming to the dignity of the office held by him.

Book of Laws of the International Typographical Union:

Section 1. Charges may be preferred against any member for any disreputable act, conduct unbecoming a union member, violation of laws of the local or International Union, or failure to observe provisions of the contract and scale of prices. Individual members may file such charges or officers of local unions may be instructed by majority vote of members present and voting at a stated meeting of the union to bring charges against a member.

Sec. 2. Charges may be filed against any officer of a local union for neglect of duty, failure to comply with the laws of the local or International Union, misappropriation of union funds or malfeasance in office.

Sec. 3. When a subordinate union is cognizant of the performance of a disreputable act on the part of a member not working within its jurisdiction, whether such act was committed within its jurisdiction or not, it is ts duty to prefer charges against him before the union under whose jurisdiction he does work.

Sec. 4. Accusations or charges must be made in writing by a member of the union in good standing within thirty days of the time complainant becomes cognizant of the offense alleged.

Sec. 5. In all cases charges must be signed by the complainant and shall be sufficiently specific as to the provisions of union law

violated and the alleged acts which constitute the basis of the charges to permit the defendant to prepare a proper defense. Two complete copies of the charges shall be delivered to the local president within the time limit provided in section 4.

Sec. 6. Within five days after charges have been received the local president shall cause to be delivered to the accused member a complete copy of the charges as filed.

Sec. 7. At the next stated meeting of the union the president shall present and cause the charges as filed to be read to the union. After discussion and consideration the following question shall be put to a vote by secret ballot: "Shall the charges as presented be deemed cognizable?"

Sec. 8. If a majority of the members present and voting record an affirmative vote a committee of five members shall be appointed by the presiding officer to investigate the charges. Such committee shall give opportunity to all parties to the controversy to be heard. The accused member may waive the right to appear without prejudicing his interest.

TRIALS.

Sec. 9. The investigating committee shall report its findings at the next regular meeting following the meeting at which it was appointed. A majority vote of members present and voting by secret ballot shall decide whether or not the charges shall be considered worthy of trial. If the charges are found worthy of trial the presiding officer shall appoint a committee of five to try the case. If either party shall object to appointment, or to the personnel of the committee as appointed, a committee of five to try the case shall be drawn by lot from the members present. The complainant, the accused and members who may be witnesses shall not be eligible to serve on the trial committee.

Sec. 10. The trial committee shall notify complainant, accused and their witnesses of time and place of sitting. Both parties shall have right of counsel, who shall be members of the union. Either party may demand that witnesses shall be sworn by a notary public or official authorized to administer oaths. If either party shall fail to appear, unless excused by trial committee for cause, the trial shall proceed. The trial committee may adjourn its hearings

from time to time, but all parties must be given due notice of time and place of all sittings.

Sec. 11. At the next stated meeting of the union after a verdict has been reached the trial committee shall report its judgment and the evidence to the union. After the trial committee's report has been read the accused shall have the right of defense before the union. The report of the trial committee, the evidence introduced, and any defense offered by the accused before the union shall be open for debate.

Sec. 13. The presiding officer shall submit to vote of the members present the question of guilt or acquittal. Two-thirds vote of members present and voting by secret ballot shall be necessary to convict. If more than one offense has been charged the vote shall be taken separately on each charge in the same manner.

Sec. 14. If the charges or any of them be sustained, or if the accused pleads guilty, a vote shall then be taken on the penalty, if any, recommended by the trial committee, but this recommendation may be amended and the vote shall be first upon the heaviest penalty proposed. It shall require three-fourths vote of members present and voting by secret ballot to suspend or expel. Any lesser penalty may be imposed by majority vote.

Sec. 15. Upon conviction for a first offense the maximum fine shall not exceed $15. Where suspension is provided as a penalty against a convicted member the period must be fixed and no right shall be affected other than that he shall not work at the printing trade during the period of suspension. Priority standing and benefits of continuous membership shall be retained by payment of dues and assessments as not at the trade. He shall be reinstated automatically at the end of the period of suspension without payment of any fee except that he shall pay any fine that may have been fixed as a part of the penalty at time of conviction.

Sec. 16. All expenses incurred in connection with the trial shall be borne by the union in case of acquittal; *Provided*, Fees of counsel shall not exceed pay for time lost at the scale of the union.

Sec. 17. A member charged with deliberate ratting may be summarily expelled without citing him to appear for trial if the report of the investigating committee is supported by three-fourths vote

of the members present and voting. A local union may expel any member of the International Typographical Union found guilty of ratting within its jurisdiction. Notice of such expulsion must be forwarded to the local union with which the expelled member was affiliated and to the Secretary-Treasurer of the International Union.

Sec. 18. When a union arraigns a member on any cause without its jurisdiction, and the party so arraigned has formerly been in good standing with the craft, it is the duty of said union to give him official notification of the charges preferred and allow him the privilege of defending himself in open meeting.

Sec. 19. When, through the action of a local union, a member is suspended and debarred from the right to work at the trade, and is subsequently proven guiltless of infraction of International or local laws, said local shall be compelled to remunerate, at its prevailing scale, such suspended member for the time lost while under suspension.

Sec. 20. The evidence of rats shall not be received in the trial of union men for any cause whatever, as they are under the ban of th union, and not recognized by it as honorable men. Evidence gleaned from the books and bookkeeper of an office should be considered good evidence on trial of a union man for violation of scale, unless surrounding circumstances or union evidence in rebuttal weakens or destroys it.

Sec. 21. No evidence shall be received or considered by a committee appointed to try charges except such as shall be offered at a regular hearing of the committee, at which all parties interested shall be, or shall have been, notified to be present.

Sec. 22. The accused may, if he so desires, waive any and all of the rights guaranteed to him by the constitution and by-laws; and upon such waiver the union may, by a majority vote, proceed to act. Nothing herein contained shall interfere with the appeal rights of the accused. The defendant to charges shall not be compelled to testify.

Sec. 23. A member charged with contempt of the union or a committee of the union shall be accorded full privileges of trial and upon conviction may be punished in the same manner as if convicted of another offense.

Sec. 24. Any member bringing charges against another which he fails to sustain by proper evidence may, by a two-thirds vote of the union, and without referring the matter to any trial committee, be censured or fined an amount equal to the expense of the trial, or both censured and fined.

APPEALS

Sec. 25. A member who has been convicted of any offense against the union or who believes his conviction was irregular or unjustified may appeal to the Executive Council by giving proper notice and following procedure governing such appeals.

Sec. 26. When a subordinate union has taken action or rendered a decision, any aggrieved member, members, chapel, or employer having a contract with said subordinate union, or any applicant for admission whose application has been rejected, may appeal as provided in the constitution and by-laws.

Sec. 27. Notice of intention to appeal to the Executive Council must be filed in writing with the president of the subordinate union with which the appellant is affiliated within five days after the action is taken or the decision rendered by the subordinate union.

Sec. 28. Appellant shall prepare and file with the president of the subordinate union two complete copies of appeal brief with all evidence and argument within twenty days after the action or decision of the subordinate union against which appeal is made.

Sec. 29. The respondent union shall have prepared two copies of its reply and file same with the president of said subordinate union within twenty days from date appeal brief is received. One complete copy of the reply containing all evidence and argument shall be immediately transmitted to appellant.

Sec. 30. Appellant shall have five days from date reply is received in which to prepare and file, as above provided, a rebuttal brief. If no rebuttal brief is filed as above provided, one copy each of the original appeal and reply briefs shall be transmitted to the Executive Council and a decision rendered upon the evidence and argument contained therein.

Sec. 31. If appellant files rebuttal brief as above provided respondent shall have five days from date it is received in which to

prepare and file surrebuttal, in which event the case shall be considered closed and copies of all documents transmitted to the Executive Council by the president of the subordinate union.

Sec. 37. Either the appellant or respondent may appeal against a decision of the Executive Council, or any subordinate union affected as such by a decision or action of the Executive Council may appeal to the next succeeding convention of the International Typographical Union.

Sec. 38. The party or subordinate union desiring to appeal against a decision or action of the Executive Council shall give to the International Secretary-Treasurer notice of such appeal within sixty days of the date of the decision or action against which appeal is to be made: *Provided,* No such appeal shall be considered by a convention unless notice as herein provided shall have been given prior to the first day of the month in which the convention is held.

Sec. 39. Copies of all documents, evidence and arguments must be transmitted to the International Secretary-Treasurer within sixty days after notice of appeal shall have been given. All appeals to a convention must be in printed form and only the briefs, documents and evidence upon which decision of the Executive Council was based shall be presented to and considered by the committee on appeal: *Provided,* That appellant shall have the right to include in his printed appeal an argument based upon the decision of the Executive Council from which the appeal is made.

Sec. 40. The appellant shall furnish to the International Secretary-Treasurer on or before the first day of the convention at which such appeal is to be considered, not less than four hnudred copies of the appeal and the International Secretary-Treasurer shall supply to each delegate in attendance a copy of such appeal.

Sec. 44. In no case shall a member appeal to a civil court or any other agency for redress from an action by the union until he has exhausted his rights of appeal under the laws of the International Union. Any member who violates this section shall be liable to summary expulsion by the Executive Council.

Rights and Duties of Members

Constitution of Wholesale & Warehouse Workers Union, Local 65, New York City:

Section 1. Every member has a right to work in a UNION shop and secure full benefits of collective bargaining.

a) He has the right to secure employment through the rotary hiring system in the Union hiring hall.

b) He has the right to vote on all terms of UNION contracts affecting him.

c) He has the right to vote on all strike calls and strike settlements affecting him.

d) He has the right to receive such strike benefits from the UNION treasury as the Stewards Council may deem practicable.

Section 2. Every member has the right to attend UNION Membership Meetings and participate in the leadership of the Union.

a) He has the right if he has been a member for at least two (2) months to vote in all elections and on all business at Membership Meetings.

b) He has the right to serve on UNION Committees.

c) He has the right to be a candidate for elective office.

d) He has the right to make recommendations and proposals or to make criticism of any phase of UNION activity, the activities of UNION officers or committees.

Section 3. Every member has a right to utilize all the welfare services of the UNION.

Section 4. Every member has a right to participate in all social, cultural, and athletic activities of the UNION.

Section 5. Every member who leaves the industry has a right to retire from active membership in the UNION.

Section 6. Every member has a right to present charges against any member, officer, or committee, and to receive a fair and open hearing on any charges in accordance with the provisions of this Constitution.

Section 1. Every member has the duty to share in the exercise of the supreme authority of the Membership.

a) Every member is obliged to attend Membership Meetings. Members who, for proper and just cause, are unable to attend a meeting shall secure an official excuse from their crew steward. Members absent from a meeting without having secured an official excuse excuse shall be required to pay a fine of one dollar ($1.00) for every such absence.

Section 3. Every member has the duty to strengthen and defend the UNION and to advance the aims of the membership.

Nomination, Election and Recall of Officers

Revised Constitution of the National Maritime Union of America.

Article 8. NOMINATIONS OF OFFICERS

Section 1. Biennially during the month of January there shall be nominated from ship and shore, candidates for office. Before 12 P.M., February 28, each nominee must have mailed to the National Secretary by registered mail the following:

(a) His acceptance and the written endorsement of twenty-five (25) full members in good standing;

(b) A filled-out bond application supplied by the NATIONAL MARITIME UNION;

(c) A recent full-faced photograph;

(d) A written record of three (3) full years sea-service and his union activity.

Sec. 2. In all Branches the Agent shall be responsible for the examination of the qualifications of the nominees. The Agent shall send to the National Secretary written verification of the nominee's eligibility.

Sec. 3. During March, the records and photographs of all candidates for office shall be published in a special supplement of the NATIONAL MARITIME UNION PILOT.

Article 9. ELECTION OF OFFICERS

Section 1. During the latter part of March a printed ballot shall be prepared and distributed by the National Secretary.

Sec. 2. In addition to the candidates for various offices, the ballots may also contain any amendments to the Constitution or By-Laws that have been regularly offered, in accordance with Article 22.

Sec. 3. Any member who is running for re-election shall have indicated alongside his name on the ballot, and alongside his photograph in the "PILOT" the number of terms of office he has held.

Sec. 4. During the last week in March, there shall be elected at a meeting in each Branch a balloting committeeman. In New York at a joint meeting there shall be elected three (3), one from each department.

Sec. 5. Voting shall begin at nine (9:00) A.M. April First and continue through to twelve (12:00) P.M. July 31.

Sec. 6. During the elections, every member entitled to vote shall apply to the duly elected balloting committeeman for a ballot at Branches, whereupon he shall be given a ballot and envelope numbered identically to the ballot, and a second envelope self-stamped and addressed to a safety box in a bank at headquarters. After marking the ballot to his own satisfaction, he shall enclose his ballot in the first numbered envelope, then enclose this envelope in the second self-addressed envelope and then seal said second envelope and mail it in the nearest United States mail box.

Sec. 7. Each member, before he receives his ballot, shall sign his name and membership number in a bound book kept for that purpose; if he is unable to write, he shall mark a cross in that book and his name and number may then be written by the officer in charge of the Branch. After he has voted, his membership book shall be stamped to indicate that he has voted, giving the date and the place where the vote is cast.

Sec. 8. Ballots shall be secret and each ballot marked in indelible pencil.

Sec. 9. Within twelve (12) hours after the balloting has been

completed in each Branch, the balloting committeeman shall immediately forward to Headquarters by registered mail all ballots unused and voided, together with the bound book.

Sec. 10. During the last week in July, at a joint meeting in New York, there shall be elected three (3) members, one from each department, to serve as judges of elctions in conjunction with the HONEST BALLOT ASSOCIATION of New York City, or any other organization of that type that the National Council may designate.

Sec. 11. The Honest Ballot Association of New York City, or any other organization of that type that the National Council may designate, shall be commissioned by the Union to count the ballots. A representative of this Association, jointly with the judges of elections, shall meet not later than the fifth day of August of the same year, and shall immediately proceed to the safe deposit vault and deliver the ballots to the Honest Ballot Association, or any other organization of that type that the National Council may designate, where they shall be counted. Any candidate shall be permitted at all times to be present when ballots are being counted.

Sec. 12. An official at Headquarters shall deliver to the Honest Ballot Association, or any other organization of that type that the National Council may designate, the bound books of voting lists forwarded from each port, and those bound books shall be checked as the ballots cast in each port are tallied.

Sec. 13. The Honest Ballot Association, or any other organization of that type that the National Council may designate, shall then count the number of ballots cast for each candidate whose name appears thereon, and also the number of ballots cast in favor of or against any amendments or proposition, and upon the completion of this count, forward a copy of the results of the count to the National Office, and at the same time deliver a copy of the report to the judges of elections.

Sec. 14. Simultaneously with the delivery of the report of the count, the Honest Ballot Association, or any other organization of that type that the National Council may designate, shall deliver to the National Secretary all of the ballots and bound books of voting lists that they may have, in the form of sealed packages. The National Secretary shall deposit the sealed packages in a safe

deposit vault and keep them until the next general election, subject to a recount ordered by the Union; a recount shall be ordered when the membership meetings at two-thirds of the Branches adopt resolutions to that effect.

Sec. 15. Immediately upon the receipt of the report of the results of the elections from the Honest Ballot Association, or any other organization of that type that the National Council may designate, it shall be published in the "National Maritime Union Pilot," and copies of this report shall be immediately dispatched to all Branches and ALL SHIPS under N. M. U. jurisdiction.

Constitution and By-Laws of the Oil Workers International Union,

Sec. 1. All International Officers shall be elected by referendum vote. The International Secretary-Treasurer shall send nomination blanks to all Local Unions, who have paid all indebtedness to the International Union up till sixty (60) days prior to nomination date. No Local Union's nomination shall be accepted unless in good standing as outlined above.

Local Unions shall return nominations to the International Secretary-Treasurer and must be postmarked not later than ninety (90) days prior to Convention. Nominations must be entered in the Minutes of the meeting at which the nominations are made and must be made on blanks provided and must bear the signature of the Local president and the seal of the Local Union.

The International Secretary-Treasurer shall notify all persons whose names have been placed in nomination. Nominees' acceptance, in writing, must be in the International Office ten (10) days after nomination deadline, and no nominee shall be a candidate for more than one (1) office. The Secretary-Treasurer shall have ballots printed with the names of the candidates who have qualified for each office and he shall have these ballots in the hands of the Local Unions on or before 56 days prior to Convention. The election shall be held in the interim between 55 days and forty days before Convention.

All election results, the registration list, marked and unmarked

ballots must be in the hands of a certified public accountant, selected by the International Executive Council, not later than twenty-five (25) days prior to Convention. The certified public accountant shall acknowledge receipt of ballots.

The certified public accountant shall notify the Secretary-Treasurer of the results of the election. The candidate receiving a plurality shall be declared elected. The Secretary-Treasurer shall announce the results of the election not less than ten (10) days preceding the Convention.

Sec. 2. Any International officer shall be subject to recall by referendum in ninety (90) days after election, provided he becomes derelict in his duties or shows incompetency to fill the office to which he has been elected. Such recall shall take place when a majority of locals so demand.

Sec. 3. Upon demand for such recall for any International officer the International Secretary-Treasurer shall provide ballots for the various locals to be used in said recall. Ballots to be in the hands of the local union secretaries within thirty (30) days after such demand has been made.

The parties demanding the recall shall have the privilege of submitting to the members of the various locals the complaint against said official in printed form, not exceeding two hundred words, and such officer shall have the same privilege of defending his action in a like number of words upon the ballot.

Sec. 4. After such recall has been declared and ballots have been placed in the hands of the local union secretaries, a ballot box shall be placed and sealed to receive the ballots of said members in a space provided by the local secretary.

Sec. 5. When any recall proceedings are legally instituted, those who demand the recall have the privilege of nominating a successor to each officer to be recalled. The candidate receiving the largest number of indorsements, from locals requesting the recall, shall be the nominee to oppose the official whose recall is demanded, and his name, with that of the incumbent, is to be placed on the recall ballot.

Book of Laws of the International Typographical Union:

NOMINATION OF CANDIDATES

Sec. 5. No member of the International Typographical Union desiring endorsement or election to office in our international organization shall use the pages of the International Typographical Journal to display his or her character or merits or to defame the character or merits of any other candidate. Each candidate shall be allowed no more than 200 words, stating their qualifications for office, same to be printed in The Typographical Journal, approximately six weeks before the date of the election, and during the period of candidacy each member desiring office shall be entitled to a 1-inch "professional" card to be carried under the heading "Candidates for Office."

Reports to Members

Book of Laws of the International Typographical Union:

Sec. 3. The Secretary-Treasurer shall act as the financial officer of the International Typographical Union and as secretary of the conevntions of this union.

(a) *Conventions.*—He shall have the reports of the officers of the International Typographical Union printed in pamphlet form, and a copy of such reports shall be mailed to every delegate-elect as soon as possible previous to the assembling of the convention; he shall publish in the July number of The Typographical Journal, as a part of the regular edition, the annual reports of the officers;

(c) *The Typographical Journal.*—He shall publish in The Typographical Journal: A sworn statement of the balances of his bank books of deposit monthly; a full monthly statement of receipts and disbursements of all kinds; on or before the first of each month a list of arrearages of subordinate unions, and if said arrearages are not paid within thirty days thereafter the presidents of all such unions shall then be officially notified; he shall exclude from the columns of The Journal all communications or other matter impugning the motives or reflecting upon the honesty of members of this union; he shall provide for the President and for each

member of the Executive Council, a department in which each of the officers, without interference or censorship, may discuss or present to the membership any matter or topic pertaining to the business or interest of the membership of this union: *Provided*, It shall be unlawful to use this department to promote or oppose the nomination or election of any candidate or candidates for International office, and it shall be unlawful to permit correspondence of a political nature to appear in The Typographical Journal.

Discrimination in Admission to Membership

Constitution and By-Laws of the United Electrical, Radio & Machine Workers of America.

Section A. All persons whose normal occupation is in the Electrical, Radio and Machine Industry, and in conformity with Article III "Jurisdiction" are eligible for membership to the UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA, regardless of skill, age, sex, nationality, color, religious or political belief or affiliation.

American Newspaper Guild

Section 7. No eligible person shall be barred from membership or penalized by reason of sex, race, or religious or political convictions, or because of anything he writes for publication.

FOR LAWYERS

References to court cases indicated in the Report.

1. RESTRICTIONS ON ADMISSION TO TRADE UNIONS UPHELD. PAGES 25, 26

Wiliams v. Quill, 277 N. Y. 1, 12 N. E. (2nd) 547 (1938) (closed shop); Murphy v. Higgins, 12 N. Y. S. (2nd) 913 (1939) (closed shop); Shein v. Rose, 12 N. Y. S. (2nd) 87 (1939); Mayer v. Journeymen Stonecutters Ass'n, 47 N. J. Eq. 519, 20 A. 492 (1890). Compare, Cameron v. Int. Alliance of T.S.E., 118 N. J. Eq. 11, 176 A. 692 (1935); Spayd v. Ringing Rock Lodge, 270 Pa. 67, 113 A. 70 (1921); Walsche v. Sherlock, 110 N. J. Eq. 223, 159 A. 661 (1932); Collins v. I.A.T.S.E., 119 N. J. Eq. 230, 182 A. 37 (1935); Schwinsky v. O'Neil, 232 Mass. 99, 104, 121 N. E. 790 (1911) (Dictum).

See, Dorrington v. Manning, 135 Pa. Super. 194, 4 A. (2nd) 886 (1939); Wilson v. Newspaper and Mail Deliverers Union, 123 N. J. Eq. 347, 197 A. 720 (1930). See also cases cited Newman, The Closed Union and the Right to Work, 43 Col. Law Rev. 42, 45, n. 25 (1943), and Wolfe, Admission to American Trade Unions (1911).

2. COURT REVIEW OF DISCIPLINARY PROCEEDINGS. PAGE 29

NON-CONFORMITY OF PROCEEDINGS WITH UNION RULES

Otto v. Journeyman Tailors Union, 75 Cal. 308, 17 Pac. 217 (1888); Polin v. Kaplan, 257 N. Y. 277, 177 N. E. 833 (1931); Luby v. Warwickshire Miners' Assn. (1912) 2 Ch. 371; (1926) Clarke v. Ferrie N. I. 1 (Ch.) Cf. Clark v. Morgan, 271 Mass. 164, 171 N. E. 278 (1930). Semble, Burke v. Monumental Division No. 52, 273 Fed. 707 (D. Md. 1919) (Scope of judicial review accorded to the claim of wrong venue within the union).

The requirement of notice, People v. Musical Mutual Protective Union, 118 N. Y. 101, 23 N. E. 129 (1889); Peo. v. Musical Protective Union, 47 Hun (N. Y.) 273 (1888); Weiss v. Musical Mutual Protective Union, 189 Pa. 446, 42 A. 118 (1899); and delivery of written charges (see cases supra; Clark v. Morgan, 271 Mass. 164, 171 N. E. 278 (1930) as well as other defects in

disciplinary proceedings (Monroe v. Colored Screwmen's Ben. Assn. No. 1, 135 La. 894, 66 So. 260 (1914) may be waived. Failure however to object to an irregularity in the proceedings of which the member on trial had no notice or knowledge cannot constitute a waiver of it. Fales v. Musicians Protective Union etc., 40 R. I. 34, 99 A. 823 (1917).

UNFAIR TRIAL

Gaestel v. Brotherhood of Painters, 120 N. J. Eq. 358, 185 A. 36 (1936); Koukly v. Canavan, 154 Misc. 343, 277 N. Y. S. 28 (1935); Local 7, Bricklayers' Union v. Bowen, 278 Fed. 271 (S. D. Tex. 1922). Compare (1929) Maclean v. Workers Union 1 Ch. 602 (includes strong criticism of the "natural justice" doctrine); Hall v. Morrin, (Mo. App.) 293 S. W. 435 (1927).

IMPROPER RULES

Neal v. Hutcheson, 160 N. Y. S. 1007 (1916); Polin v. Kaplan, 257 N. Y. 277, 177 N. E. 833 (1931); Bossert v. Dhuy, 221 N. Y. 342 117 N. E. 582 (1917); Barker Painting Co. v. Brotherhood of Painters, 15 F. (2nd) 16, cert. den. 273 U. S. 748, 71 L. Ed. 871 (1927); Snay v. Lovely, 276 Mass. 159, 176 N. E. 791 (1931); Sweetman v. Boardman, 263 Mass. 349, 161 N. E. 272 (1928); O'Keefe v. Local 463, 277 N. Y. 300, 14 N. E. (2nd) 77 (1938). Excessive penalty disproportionate to offense *held* void. Koukly v. Weber, 277 N. Y. S. 39 (1935).

3. PROPER TRIAL PROCEDURE. PAGE 29

NOTICE

Lysaght v. St. Louis Operative Stone Masons Assn., 55 Mo. App. 538 (1893); Peo. v. Ind. Dock Builders etc. 164 App. Div. 271, 149 N. Y. S. 774 (1914); Krause v. Sander, 122 N. Y. S. 54, 66 Misc. 601, affd. 143 App. Div. 941, 127 N. Y. S. 1128 (1911); Cotton Jammers etc. Assn. v. Taylor, 23 Tex. Civ. App. 367, 56 S. W. 553 (1900); Pratt v. Amalgamated Assn. etc., 50 Utah 472, 167 Pac. 830 (1917); Blek v. Kirkman, 266 N. Y. S. 91, 148 Misc. 552 (1932); Biones v. Cushing, 117 N. J. Eq. 593, 177 A. 1021 (1935), affd. without opinion, 119 N. J. Eq. 377, 182 A. 874.

FAIR HEARING

Rodier v. Huddell, 232 App. Div. 531, 250 N. Y. S. 336 (1931); Holmes v. Brown, 146 Ga. 402, 91 S. E. 408 (1917); Hatch v. Grand Lodge etc., 233 Ill. App. 495 (1924); Johnson v. Interna-

tional etc., 52 Nev. 400, 288 Pac. 170 (1930) (Failure to afford trial as guaranteed by union constitution); Gilmore v. Palmer, 179 N. Y. S. 1, 109 Misc. 552 (1919); Feurst v. Musical Mut. Prot. Union, 95 N. Y. S. 155 (1905). Compare, Riverside Lodge No. 164 v. Amalgamated Assn. etc. 13 F. Supp. 873 (D. C. Pa. 1936).

Local No. 7 of Bricklayers Masons & Plasterers International Union of America v. Bowen, 278 Fed. 271 (S. D. Tex. 1922); Hall v. Morrin (Mo. App.) 293 S. W. 435 (1927); Schouten v. Alpine, 77 Misc. 19, 137 N. Y. S. 380, affd. 155 App. Div. 922, 140 N. Y. S. 1144, (rev. on other grounds, 215 N. Y. 225, 109 N. E. 244) (1912); Krause v. Sander 66 Misc. 601, 121 N. Y. S. 54, affd. 143 App. Div. 941, 127 N. Y. S. 1128 (1911); Stenzel v. Cavanaugh, v. 189 N. Y. S. 883 (1912).

CONFRONTATION OF WITNESSES

Solomon Brooks v. Jacob Engar, Pres. etc. 259 App. Div. 333, 19 N. Y. S. (2nd) 114 (1941); Koukly v. Weber, 277 N. Y. S. 39 (1935) (Cross examination).

SEPARATE HEARING AND PROSECUTING BODIES

Cohen v. Rosenberg, 262 App. Div. 274, 27 N. Y. S. (2nd) 834 (1941); Gaestel v. Brotherhood of Painters, etc., 120 N. J. Eq. 358, 185 A. 36 (1936).

UNPREJUDICED TRIAL BOARD

Cohen v. Rosenberg, 262 App. Div. 274, 27 N. Y. S. (2nd) 834 (1941); Local 7, Bricklayers Union v. Bowen, 278 Fed. 271 (S. D. Tex. 1922). See, Edrington v. Hall, 168 Ga. 484, 148 S. E. 403 (1929) (expulsion in bad faith).

4. EXHAUSTION OF REMEDIES. PAGE 30

Harmon v. Mathews, 27 N. Y. S. (2nd) 656 (1941). See citations Witmer, Civil Liberties and the Trade Union, 50 Yale L. J. 621, 630, n. 34 (1940). Cf. Nissen v. International Bro. of Teamsters etc., 295 N. W. 858 (Iowa 1941).

Exceptions to Rule of Exhaustion of Remedies.

The exceptions listed are only a few. For others see Witmer, Civil Liberties and the Trade Union, 50 Yale L. J. 621, 630, n. 35 (1940).

Where Damages Sought

Bro. of Loco. Eng. v. Green, 210 Ala. 495, 88 So. 569 (1923); St. Louis S. W. Ry. v. Thompson, 102 Tex. 89, 99, 133 S. W. 14 (1908).

Bad Faith of Hearing Board

Johnson v. United Bro. of Carpenters, 52 Nev. 400, 288 Pac. 170 (1930); Lo Bianco v. Cushing, 117 N. J. Eq. 593 (1935), affd. 119 N. J. Eq. 377; Rodier v. Huddell, 232 App. Div. 531, 250 N. Y. S. 336 (1931). *Contra.* Bonham v. Bro. of R. R. Trainmen, 146 Ark. 117, 225 S. W. 335 (1920); Screwmen's Benev. Assn. v. Benson, 76 Tex. 552, 13 S. W. 379 (1890).

Appeal Futile

Harris v. Geier, 112 N. J. Eq. 99, 164 A. 50 (1932); Walsche v. Sherlock, 110 N. J. Eq. 223, 159 A. 661 (1932); Rodier v. Huddell, 232 App. Div. 531, 250 N. Y. S. 336 (1931). Cf. Fish v. Huddell, 51 F. (2nd) 319 (App. D. C. 1931); Mulcahy v. Huddell, 172 N. E. 796 (Mass. 1930); Snay v. Lovely, 176 N. E. 79 (Mass. 1931); Kunze v. Weber, 188 N. Y. S. 644 (1921).

Hearing Before Improper Body

Shapiro v. Gehlman, 244 App. Div. 238, 278 N. Y. S. 785, rev. 272 N. Y. S. 652, 152 Misc. 13, mod. Shapiro v. Brennan, 269 N. Y. 517, 199 N. E. 515 (1935).

5. THE COURTS ON UNION DISCIPLINE. PAGES 30, 33, 34

When reinstatement ordered

Defamatory Statements in Letter

See, Cohen v. Rosenberg, 262 App. Div. 274, 27 N. Y. S. (2nd) 834 (1931) (denied).

Criticism of Officials in Press

See, Gaestel v. Bro. of Painters etc., 120 N. J. Eq. 358, 185 A. 36 (1936) (decree issued however for other reasons, lack of impartial trial).

Invalid Union Rule

Angrisoni v. Stearn, 167 Misc. 728, 8 N. Y. S. (2nd) 997, affd. without opinion, 255 App. Div. 975 (1938).

FAILURE TO PAY INSURANCE PREMIUM

Sweetman v. F. C. Burrows et al, 263 Mass. 349 (1928).

WORKING DURING STRIKE

Willcutt & Sons v. Bricklayers Union, 83 N.E. 897 (Mass. 1908).

UNJUSTIFIED SUSPENSION

Nissen v. Inter. Bro., 295 N.W. 858 (Iowa 1941).

Denial of Reinstatement

ACCEPTING LESS THAN UNION PAY

O'Keefe et al v. Local 463, etc., 277 N.Y. 300, 14 N.E. (2nd) 77 (1938); Harmon v. Mathews, 27 N.Y.S. (2nd) 656 (1941). Cf. Clark v. Morgan, 271 Mass. 164, 171 N.E. 278 (1930).

FAILURE TO PAY BACK DUES

Brown v. Libman, 141 Pa. Super. 467, 15 A. (2nd) 513 (1940).

But cf. Fleming v. Motion Picture Mach. Oper., 124 N.J. Eq. 269, 1 A. (2nd) 386 (1938).

ACTING AGAINST UNION INTEREST

Mogelever v. Newark Newspaper Guild, 122 N.J. Eq. 316, 194 A. 6 (1937); Clark v. Morgan, 271 Mass. 164, 171 N.E. 278 (1938). But see, Yankee Network v. Gibbs, 295 Mass. 56, 3 N. E. (2nd) 228 (1936); Spayd v. Ringing Rock Lodge, 270 Pa. 67, 113 A. 70 (1921) (Union rule forbidding action by member in opposition to legislative positions taken by the union *held* void. Cf. U. S. v. Cruikshank, 92 U. S. 542 (1875) (right of petition).

Necessity of Property Interest

Fleming v. Motion Picture Mach. Oper., 124 N.J. Eq. 269, 1 A. (2nd) 386 (1938); Mogelever v. Newark Newspaper Guild, 122 N.J. Eq. 316, 194 A. 6 (1937).

6. FIGHTING THE ADMINISTRATION, PAGES 34-38

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Cohen v. Rosenberg, 262 App. Div. 274, 27 N.Y.S. (2nd) 834 (1941).

DENIAL OF EFFECTIVE APPEAL

Solomon Brooks v. Jacob Engar, 259 App. Div. 333, 19 N.Y.S. (2nd) 114 (1940).

INVALID UNION RULE

Angrisoni v. Stearn, 167 Misc. 728, 8 N.Y.S. (2nd) 997, affd. without opinion 255 App. Div. 975 (1938).

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Reilly v. Hogan et al, 32 N.Y.S. (2nd) 864, affd. 36 N.Y.S. (2nd) 423 (1942).

7. STRUGGLE FOR POWER. PAGE 39

LOCAL REINSTATED

Heasley et al v. Operative Plasterers, etc., 324 Pa. 257, 188 A. 206 (1936).

DISSIDENT LOCAL PROTECTED

Mische v. Kaminski, 127 Pa. Super. 66, 193 A. 410 (1937).

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